

Ordinance No. 107

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF ZONING REGULATIONS FOR THE CITY OF GARIBALDI, OREGON, IN CONFORMANCE WITH THE COMPREHENSIVE PLAN, AND REPEALING ORDINANCES 79, 92, 93 AND 101.

WHEREAS, The City Council has requested that a Comprehensive Plan and Zoning Ordinance be enacted and created for and by the City of Garibaldi; and

THEREFORE, the City of Garibaldi does ordain as follows:

ARTICLE I. INTRODUCTORY PROVISIONS

Section 1.010 Title. This ordinance shall be known as the Garibaldi Zoning Ordinance.

Section 1.020 Purpose. The purpose of this ordinance is: to encourage the orderly development of the City; to promote appropriate uses of land; to conserve and stabilize the value of property; to provide adequate light and air; to lessen congestion; to prevent undue concentration of population; to facilitate adequate provisions for community facilities such as water supply and sewerage; to protect and enhance the appearance of the City; and in general to promote the public health, safety, convenience, and general welfare. The City has prepared a comprehensive plan and zoning ordinance to encourage orderly growth and to promote the public health, safety, convenience, and public welfare.

Section 1.030 Definitions. As used in this ordinance, the following words and phrases shall mean:

Accessory Use and Structure: A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

Access: Access to property is described as normal vehicular access, by which normal ingress and egress by automobiles or other vehicles and pedestrians may be obtained to private property from public or private right-of way.

Aquaculture: The propagation, planting, feeding, or growing and harvesting of fish, shellfish, plankton or aquatic plants.

Bed and Breakfast: An owner occupied dwelling where no more than four rooms are available for transient lodging and where a morning meal is provided.

Bridge Crossings: The portion of a bridge spanning a waterway not including support structures or fill located in the waterway or adjacent wetlands.

Bridge Crossing Support Structures: Piers, piling, and similar structures necessary to support a bridge span, but not including fill for causeways or approaches.

Building: A structure, other than a manufactured home, built for support, shelter or enclosure of persons, animals, or property of any kind, and having a fixed base on, or fixed connection to the ground.

City: The City of Garibaldi, Oregon.

A, Commission means the City Planning Commission,
B, Council means the City Council.

Day Care Center: A facility other than the residence of the day care provider, which receives three or more children for a part of the 24 hours of the day for the purpose of providing care and board apart from the children's parents or guardians,

Dock: A pier, piling, or secured floating platform for marine craft tie-up in association with one or more private residences,

Dredge Disposal: The deposition of material obtained from dredging,

Dwelling Unit: One or more rooms in a building that are designed for occupancy by one family and that have cooking and sanitary facilities, but not including space in a structure or vehicle designed for camping or other temporary occupancy such as a hotel, motel, or recreational vehicle.

Dwelling, Single Family or One Family: A detached building containing one dwelling unit and designed for occupancy by one family only,

Dwelling, Duplex or Two Family: A detached building containing two dwelling units and designed for occupancy by two families.

Dwelling, Multifamily: A building or portion thereof, designed for occupancy by three or more families living independently of each other,

Estuarine Enhancement: An action which results in a long-term improvement of existing estuarine functional characteristics and processes that is not the result of a creation or restoration action.

Family: An individual or two or more persons related by blood, marriage, legal adoption, guardianship, or one or more persons living together as one housekeeping unit, using one kitchen, and providing meals or lodging.

Family Day Care Center: A day care facility where care is provided in the home of the provider, in the family living quarters, to fewer than 13 children including children of the provider, regardless of full or part-time status.

Fence: A barrier consisting of wood, metal or masonry, or a hedge placed or constructed for the purpose of obstructing movement or vision, or to enclose an open area,

Fill: The placement by man of sand, sediment, dredged material or other material which results in the replacement of an aquatic area with dry land, a change in the bottom elevation of a water body (in estuarine waters, intertidal areas or tidal wetlands) or an increase in the elevation of land (on shorelands). The placement of riprap is excluded from this category.

Grade (Ground level): The average elevation of the existing grade or ground at the centers of all walls of a building.

Height of Building: The vertical distance from the grade to the highest point of the roof, excluding chimneys, aerials and similar extensions.

Hedge: A combination of non-annual plantings intended to form an obstruction to ingress or egress and/or vision, where such plantings provide, or are intended to provide, no physical space between individual plantings.

Home Occupation: A lawful occupation carried on by a resident of a dwelling as an accessory use on the same property, in connection with which there is no person employed other than a person residing on the premises; and there is no activity conducted in such manner as to give an outward appearance of a business in the ordinary meaning of the term, or disruption of the neighborhood.

Kennel: A lot or building in which four or more dogs, cats or at least four animals of four months of age or older are kept commercially for board, propagation, training or sale.

Lot: A parcel or tract of land.

Lot Area: The total horizontal area within the lot lines of a lot exclusive of public and private streets and easements of access to other property.

Lot Corner: A lot abutting on two or more dedicated streets at their intersection.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line.

Lot Line: The property line bounding a lot.

Lot Line, Front: The lot line separating the lot from the street, and in the case of a corner lot, the shortest lot line along a street.

Lot Line, Rear: The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

Lot Line, Side: Any lot line not a front or rear lot line.

Lot Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

Lot Area Coverage: The maximum amount of the lot which can be covered with structures, including carports, porches and other attachments, but not parking area, patios, decks or other surface level improvements.

Manufactured dwelling:

- A. A residential trailer, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.
- B. A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- C. A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance

with federal manufactured housing construction and safety standards regulations in effect at the time of construction. "Manufactured dwelling" does not mean any building or structure subject to the Structural Specialty code adopted pursuant to ORS 455.100-455.450.

Manufactured Dwelling Park: Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person, "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured home per lot if the subdivision was approved by the City of Garibaldi.

Marina: Publicly, or privately, owned commercial facilities which provide berthing, launching, storage, supplies, and a variety of services of recreational, commercial fishing and charter fishing marine craft. Marinas are differentiated from moorages by their larger scale, the provision of significant accessory landslide services and/or the use of solid breakwater (rock, bulkheading, etc).

Minor Navigation Improvement: Alterations necessary to provide water access to existing or permitted uses in conservation management units including dredging for access channels and for maintaining existing navigation but excluding fill and in-water navigational structures other than floating breakwaters or similar permeable wave barriers.

Mitigation: The creation, restoration, or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary, such as its natural biological productivity, habitats, and species diversity, unique features and water quality (ORS 541.626).

Mitigation Site: An area identified in the Mitigation/Restoration Plan element of the Tillamook County Comprehensive Plan as a potential site for estuarine creation, restoration or enhancement, subject to applicable state and federal standards,

Modular Housing: A dwelling unit manufactured off-site, built to be used for permanent residential occupancy, to be set on a permanent foundation and conforming to the Uniform Building Code.

Nonconforming Structure or Use: A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Owner: An owner of property or the authorized agent of an owner.

Open Space: That portion of a lot or parcel of property which is left uncovered by structures, parking, patios, and other impervious surfaces; it is area devoted primarily to landscaping or natural vegetation, although the use of decks is allowed, and lands which remain substantially undeveloped for one or more of the following reasons;

- A. Public or private outdoor recreation;
- B. Public health or safety;
- C. Managed resource preservation;
- D. Managed resource production; and
- E. Separation between other uses.

Parking Space: An enclosed or unenclosed surface area permanently reserved for the temporary storage of one automobile and connected with a street or alley which affords ingress and egress for automobiles.

Permit: Discretionary approval of a proposed development of land under ORS 227.215.

Person: Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or any group or combination acting as a unit.

Property, downslope: A lot, or parcel of land which is located below, or at a lower elevation, than the adjacent street, road, or vehicular access way, including easements. A lot or parcel which runs between two parallel streets shall be considered downslope property for purposes of building height.

Public Utility: A private business or organization such as a public service corporation, performing some public service and subject to governmental regulation, or a governmental agency performing similar public services. Such services shall include but are not limited to electric, gas, power or telephone.

Recreation Vehicle: A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreation or emergency purposes and has a gross floor space of less than 400 square feet. "Recreational vehicle" includes camping trailers, motor homes, park trailers, bus conversions, van conversion, tent trailers, travel trailers, truck campers and any vehicle converted for use or partial use as a recreational vehicle. The unit shall be identified as a recreational vehicle by the manufacturer.

Recreation Vehicle Park: A lot which is operated on fee or other basis as a place for the parking of occupied recreation vehicles.

Residential Facility: A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with training or treatment or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

Residential Home: A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with training or treatment or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

Resource Capability: The measure of an area, or the biological communities within an area, to withstand alteration. A use or activity is considered to be consistent with the resource capabilities of an area if the level of use proposed can be accommodated without producing significant adverse impacts to biological productivity or to the quality of air, land and water resources within the area.

Restoration: Replacing or restoring original attributes or amenities such as natural biological productivity and aesthetic or cultural resources which have been diminished or lost by past alterations, activities, or catastrophic events. For the purposes of Goal 16, estuarine restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations,

activities or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system when alteration work began.

Active Restoration: The use of specific positive remedial action, such as removing fills, dredging of shoaled navigation channels, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas.

Passive Restoration: The use of natural processes, sequences, and timing which occurs after removal or reduction of adverse stresses without other specific positive remedial action.

Shoreline Stabilization Structures: The protection of the banks of tidal or non-tidal streams or rivers, estuarine waters or coastal lakes from flooding or erosion by vegetative means, or by structural means such as riprap, groins, or bulkheads, or dikes.

Sign or Sign Related Definitions:

- A. **Abandoned Sign:** A sign pertaining to a use or lot where the message of the sign no longer pertains to a use or activity occurring on the lot.
- B. **Awning Sign:** A sign that is placed on a temporary or moveable shelter supported entirely from the exterior wall of the building.
- C. **Bench Sign:** A sign painted on or attached to a bench.
- D. **Incidental Sign:** A sign, other than a temporary or lawn sign, which does not require a permit.
- E. **Lawn Sign:** A temporary freestanding sign made of rigid materials.
- F. **Permanent Sign:** A sign attached to a building, structure or the ground in some manner, having a sign face area of four square feet or more and made of materials intended for more than short term use.
- G. **Projecting Sign:** A sign attached to and projecting out from a building face or wall and generally at right angles to the building.
- H. **Readerboard Sign:** A sign which can accommodate changeable copy.
- I. **Sandwich Board Sign:** A sign not supported by a structure in the ground, nor attached to or erected against a structure, and capable of being moved.
- J. **Sign:** Any identification, description, illustration, symbol or device which is affixed upon a building, structure or land and whose primary purpose is to convey a message.
- K. **Site Frontage:** The length of the property line parallel to and along each public right-of-way.
- L. **Temporary Sign:** A sign not permanently attached to a building, structure or the ground.
- M. **Undeveloped Site:** A lot with no permanent structure which contains a use permitted by the zone in which it is located.

N. Wall Sign or Wall Graphics: A sign attached to or erected against the wall of a building with the sign face in a parallel plane to the building wall, including a painting or other graphic art technique which is applied directly to the wall or the face of a building or structure,

O. Window Sign: A sign permanently affixed to the window panes of a building,

Street: The entire width between the right of way lines of every way for vehicular and pedestrian traffic and includes the terms "road", "highway", "lane", "place", "avenue", "alley", and other similar designations.

Structure: Something constructed or built, or any piece of work artificially built up or composed of parts joined together in some definite manner,

Structural Alteration: Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or exterior walls.

Temporary Alteration: Dredging, filling, or another estuarine alteration occurring over a specified short period of time which is needed to facilitate a use allowed by an acknowledged plan. Temporary alterations may not be for more than three years and the affected area must be restored to its previous condition. Temporary alterations include:

- A. Alterations necessary for federally authorized navigation projects (e.g., access to dredged material disposal sites by barge or pipeline and staging areas or dredging for jetty maintenance),
- B. Alterations to establish mitigation sites, alterations for bridge construction or repair and for drilling or other exploratory operations, and
- C. Minor structures (such as blinds) necessary for research and educational observation.

Use: The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

Water-Dependent: Uses and activities which can be carried out only on, in or adjacent to water because the water location or access is needed for one of the following:

- A. Water-borne transportation (navigation; moorage; fueling and servicing of ships or boats; terminal and transfer facilities resource and material receiving and shipping), or
- B. Recreation (active or passive recreation such as viewing and walking), or
- C. A source of water (energy production, cooling of industrial equipment or wastewater, other industrial processes, aquaculture operations), or
- D. Marine research or education (viewing, sampling, recording information, conduct experiments, teaching).

Water-Oriented: A use whose attraction to the public is enhanced by a view of or access to coastal waters.

Water-Related: Uses and activities that do not require direct water access (are not water-dependent), but which:

- A. Provide goods and/or services that are directly associated with other water-dependent uses (supplying materials to, or using products of, or water-dependent uses), and
- B. If not located near the water, would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality shall involve a subjective consideration of economic, social and environmental consequences of the use.)

Wetlands: Land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface; Wetland soils retain sufficient moisture to support aquatic or semiaquatic plant life; In marine and estuarine areas, wetlands are bounded at the lower extreme by extreme low water; in non-tidal areas by a depth of 6 feet. The areas below wetlands are submerged lands.

Yard: An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.

Yard, Front: A yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building or other structure. Any yard meeting this definition and abutting a street shall be considered a front yard.

Yard, Rear: A yard between side lot lines and measured horizontally at right angles to the rear lot line to the nearest point of a building or other structure.

Yard, Side: A yard between the front and rear measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.

Yard, Street Side: A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure.

Section 1.035 Estuarine and Coastal Shoreland Definitions. The definitions in the Tillamook County Land Use Ordinance for Estuary Zones, Shorelands Overlay Zone and Water-Dependent Development Zone are adopted by reference. The definitions contained therein shall be applied in the following zones where there is no appropriate definition in Section 1.030: Estuary Natural Zone, Estuary Conservation 1 Zone, Estuary Conservation 2 Zone, Dredge Material Disposal Site Protection Overlay Zone, Water-Dependent Development Zone and Waterfront Development Support Zone.

ARTICLE 2 BASIC PROVISIONS

Section 2.010 Compliance With Ordinance. Land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as this ordinance permits.

Section 2.020 Classification of Zones. For the purposes of this ordinance, the following zones are hereby established:

| <u>ZONE</u> | <u>ABBREVIATED DESIGNATION</u> |
|-------------------------------|--------------------------------|
| Medium Density Residential | R-1 |
| Resource Open Space | R-0 |
| Commercial | C-1 |
| General Industrial | I-1 |
| Water-Dependent Development 1 | WD1 |

| | |
|---|-----|
| Water-Dependent Development 2 | WD2 |
| Dredge Material Disposal Site Protection Zone | DMD |
| Estuary Natural | EN |
| Estuary Conservation 1 | EC1 |
| Estuary Conservation 2 | EC2 |
| Estuary Development | ED |

Section 2.030 Location of Zones. The boundaries for the zones listed in this ordinance are indicated on the "Garibaldi Land Use and Zoning Map" which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference.

Section 2.040 Zoning Map. A zoning map or zoning map amendment adopted by Section 9,010 of this ordinance or by an amendment thereto shall be prepared by the City Council or be a modification by the City Council of a map or map amendment so prepared. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the City Recorder as long as this ordinance remains in effect.

Section 2.050 Zone Boundaries. Unless otherwise specified, zone boundaries are section lines; subdivision lines; lot lines; center lines of street or railroad right of way or such lines extended.

Section 2.060 Zoning of Annexed Areas. Areas annexed to the City shall be the same as the County Zoning designation until the City zones it otherwise,

ARTICLE 3 USE ZONES

Section 3.010 Medium Density Residential Zone (R-1). Purpose: The R-1 zone is intended to provide an area of primarily single family homes, duplexes and manufactured homes, with apartments allowed as a conditional use.

1. Uses Permitted Outright: In an R-1 zone, the following uses are permitted outright subject to the standards and criteria of subsection 3. below,
 - A. Single family dwellings, including modular housing.
 - B. Duplexes or two family dwellings.
 - C. Manufactured dwelling.
 - D. Home occupations.
 - E. Public parks and playgrounds.
 - F. Family day care center.
 - G. Residential home.
 - H. Manufactured dwelling or recreational vehicle used during the construction of a permitted use for which a building permit has been issued, but not to exceed six months duration.

2. Conditional Uses Permitted: In an R-1 zone, the following uses are permitted subject to the provisions of Article 6, and subsection 3. below.
 - A. Multifamily dwellings
 - B. Manufactured dwelling parks
 - C. Schools, churches and community buildings
 - D. Planned unit developments in accordance with Article 10.

- E. Bed and breakfast
- F. Public utility structure
- G. Government structure
- H. Day care center
- I. Residential facility

3. Standards and Criteria: In an R-1 zone, the following standards and criteria shall apply to all uses.

- A. The minimum lot size for single family dwellings, modular housing and manufactured dwellings shall be 5000 square feet,
- B. The minimum lot size for duplexes shall be 7500 square feet,
- C. The minimum lot size for a triplex shall be 10,000 square feet. The minimum lot size for multifamily dwelling, structures containing 4 or more dwelling units shall be 10,000 square feet for the first three dwelling units and 1500 square feet for each dwelling unit thereafter,
- D. The minimum lot width shall be 30 feet.
- E. The minimum front yard shall be 10 feet.
- F. The minimum rear yard shall be 5 feet.
- G. The minimum side yard shall be 5 feet, except on a street side it shall be 10 feet.
- H. Manufactured dwellings shall meet the requirements of Section 4,105,
- I. The maximum building height shall be 24 feet.
- J. Parking requirements of Section 4.060 shall be adhered to,
- K. A clear vision area on corner lots shall be provided and maintained,

Section 3.020 Resource Open Space Zone (RO). Purpose: The R-O zone is intended to maintain resource lands including forest lands, watersheds and mineral and aggregate sites, for management protection. Intensive uses are intended to be regulated through the Conditional Use process.

1. Uses Permitted Outright: In the R-O zone, the following uses are permitted outright subject to the standards and criteria of subsection 3, below,

- A. Low intensity recreation uses including hiking trails,
- B. Natural areas and watershed preservation.

2. Conditional Uses: In the R-O zone, the following uses are permitted subject to the standards and criteria of subsection 3, below and of Article 6.

- A. Public utilities, including waterworks and power lines
- B. Forest management including logging, reforestation, road building and spraying of chemicals.
- C. Mineral and aggregate extraction.
- D. Recreation uses involving structures.

3. Standards:

- A. Refer to Conditional Use Standards, Article 6.
- B. The location of hiking trails shall be coordinated with the Oregon State Parks Department.

Section 3.030 Commercial Zone C-1. Purpose: The C-1 zone is intended to centralize commercial uses along U.S. Highway 101, and to maintain primary commercial uses such as stores, banks and offices in the central area of town. Large land users are intended to be located on the fringes of the commercial zone.

1. Uses Permitted Outright: In a C-1 zone the following uses and their accessory uses are permitted outright subject to the standards of subsection 3, below
 - A. Primary retail activities, such as shops or stores engaged in the sale of retail merchandise, except establishments selling automobiles, manufactured dwellings or other large merchandise,
 - B. Consumer services such as banks, barber and beauty shops, repair shops, printing shops, laundries.
 - C. Eating and drinking establishments.
 - D. Indoor amusement activities and bowling alleys.
 - E. Business, government and professional offices.
 - F. A residential use in conjunction with a permitted use where the residential use does not exceed fifty percent of the building's floor area or where the residential use is located entirely on a second floor or story,
 - G. Motels, hotels and tourist housing.
 - H. Churches, libraries or community meeting halls.
 - I. Health facilities such as clinics, nursing homes,
 - J. Arts and crafts studios or galleries.
 - K. Bus depot.
 - L. Parks and publicly owned recreation areas,
 - M. Family day care center and day care center,

2. Conditional Uses Permitted: In a C-1 zone, the following conditional uses and accessory uses are permitted subject to the requirements of subsection 3, below, and Article 6.
 - A. Service stations, car lots, lumber yards, manufactured dwellings dealerships, public or private parking facilities, boat dealers, farm equipment dealers.
 - B. Cabinet or woodworking shops, plumbing, heating, electrical, paint or other contractor storage, repair or sales shops,
 - C. Wholesale warehouse or distribution establishments, excluding mini-storage establishments.
 - D. Tire retreading, welding or machine shops.
 - E. Recreational vehicle park.
 - F. Mini-storage establishments.
 - G. Triplex or multifamily dwellings, subject to Section 4,042,

3. Standards: In a C-1 zone, the following standards shall apply:
 - A. Lot size: None.
 - B. Yards and Setbacks: For residential uses, the requirements shall be the same as in the R-1 zone. The minimum yard depth for portions of the property abutting a residential zone will be 15 feet. The Uniform Fire Protection Code shall govern adjacent commercial uses.
 - C. Building Height: Maximum building height shall be 24 feet, except where the Planning Commission finds that a building up to 30 feet in height will not unduly block views of adjacent properties.

- D. Outdoor Sales and Service areas shall be approved by the Planning Commission. Such areas shall not exceed 400 square feet. The Planning Commission may require that such areas be enclosed by fencing or landscaping where appropriate.
- E. All uses shall meet the parking and sign requirements of this ordinance.
- F. The minimum lot size for a triplex shall be 10,000 square feet. The minimum lot size for multifamily dwellings (4 dwelling units or more) shall be 10,000 for the first three units and 1,500 for each unit thereafter. The Planning Commission may allow up to 50% additional dwelling units (up to 39 dwelling units per acre) for senior citizen or adult disabled housing.
- G. There shall be no minimum yard requirements for housing developments in the C-1 zone. Senior citizens and/or adult disabled housing shall provide a minimum of 10% of the lot area in maintained landscaping. Family oriented housing developments shall provide a minimum of 20% of the lot area in maintained landscaping. In addition, such developments shall provide a fenced playground, which in the view of the Planning Commission, is capable of serving the number of projected children.

Section 3.040 General Industrial Zone (I-1). Purpose: The purpose of the General Industrial zone is to provide sites for industrial activities requiring large land areas, and which have generally greater impacts on the community, and which may be incompatible with other uses. Proximity to highway and railroad transportation is considered important.

1. Uses Permitted Outright. In the I-1 zone, the following uses are permitted subject to the requirements to the standards of subsection 3, below:
 - A. Fabrication, production, processing, assembling, packaging or treatment of materials, goods, food stuffs and other semi-finished or finished products from semi-finished or raw materials,
 - B. Storage or distribution services of facilities, including terminals, warehouse, storage buildings and yards, contractors' establishments, ready mix plants or similar uses.
 - C. Research and development laboratories, including experimental, testing and processing facilities.
 - D. Welding or heavy repair services.
 - E. Temporary or interim uses which do not preclude the use of the property for more intensive industrial uses.
 - F. Public utility structure.
 - G. Mini-storage establishments.
(See definitions, Section 1.030)
2. Conditional Uses Permitted. In the I-1 zone, the following uses are permitted subject to requirements of subsection 3. below and Article 6,
 - A. Automobile Wrecking Yard.
3. Standards: In an I-1 zone, the following standards shall apply:
 - A. Lot Size: No minimum lot size.
 - B. Yards and Setbacks: Industrial uses abutting a WD1 or WD2 zone shall be set back from the adjoining zone a minimum of 10 feet.
 - C. Buffers and Landscaping: Industrial uses shall establish a sight-obscuring fence or hedge around outdoor storage areas where such storage areas abut a WD1 or WD2 zone.
 - D. Building Height: Maximum building height shall be 30 feet.

- E. All uses shall meet the noise, air quality and water quality requirements of the State Department of Environmental Quality (DEQ),
- F. All uses shall meet the parking and sign requirements of this ordinance,
- G. Estuary and Shoreland Standards contained in Section 4.110 shall apply,

Section 3.050 Water Dependent Development Zone (WD1). Purpose: The WD1 zone is intended to provide an area in which primarily water dependent and water related uses are located for the support of the marine industry.

1. Uses Permitted Outright: In a WD1 zone, the following uses are permitted subject to the standards and criteria of subsection 3. below.

- A. Low intensity recreation, such as viewpoints or fishing areas,
- B. Navigational aids.
- C. Maintenance and repair of existing structures and facilities.
- D. Water-dependent industrial uses including but not limited to:
 - 1. Land-based portions or piers, wharfs, and other terminal and transfer facilities for passengers or water-borne commerce such as fish, shellfish, timber or timber products, metal and port activities associated with such facilities;
 - 2. Water intake and discharge facilities;
 - 3. Facilities for the extraction of minerals, aggregate, petroleum, natural gas, earth products or geothermal resources (as defined by subsection 4. of ORS 533.10) which require access to water during the extraction procedure;
 - 4. Water access structure or facilities which require access to a water body as part of the manufacture, assembly, fabrication or repair of marine equipment, due to the size or nature of the craft or equipment;.
 - 5. Seafood receiving and processing;
 - 6. Other water-dependent uses.
- E. Water-dependent commercial uses, including but not limited to:
 - 1. Commercial marinas, docks and moorages and support facilities;
 - 2. Other water-dependent commercial uses.
- F. Water-dependent recreational facilities including private docks, moorages and waterfront parks.
- G. Water-dependent portions of aquaculture facilities.
- H. Structural shoreline stabilization.
- I. Landfalls and access corridors for submerged cable, sewer line, water line or other pipe line crossing.
- J. New dike construction, if required for a water-dependent use.
- K. A temporary use which involves minimal capital investment and no permanent structure or a use in conjunction with and incidental to a water-dependent use.

2. Conditional Uses Permitted: In a WD1 zone, the following uses are permitted subject to the provisions of Article 6 and subsection 3. below.

- A. Water related industrial uses, including but not limited to:
 - 1. Warehousing and/or other storage areas for marine equipment or waterborne commerce;

2. Sorting, storage and handling of logs or, lumber in conjunction with a shipping facility or a processing facility which utilize water transport of logs;
3. Other water related industrial uses,

B. Water related commercial uses, including but not limited to:

1. Seafood retail or wholesale outlets;
2. Marine craft or marine equipment sales establishments;
3. Sport fish cleaning, smoking or canning establishments;
4. Charter fishing offices;
5. Retail trade establishments providing primarily products necessary for the commercial and recreational fishing industry, such as ice, bait, tackle, nautical charts, gasoline or similar products;
6. Restaurants which provide a view of the waterfront and which are in conjunction with another water dependent or water related commercial use, such as a seafood processing plant or a charter office;
7. Other water related uses.

- C. Accessory uses in conjunction with a permitted or conditional use,
- D. Dredged material disposal.
- E. Mitigation, restoration, creation or enhancement,
- F. Public utility structure.

3. Standards: In the WD1 zone, the following standards shall apply:

- A. Lot Size: The minimum lot size shall be the area necessary to support the proposed use, including sufficient land for parking, off-loading, ingress and egress, and storage of materials.
- B. Yards and Setbacks: Industrial uses abutting a WD2 zone shall be set back from the adjoining zone a minimum of 10 feet.
- C. Buffers and Landscaping: Industrial uses shall establish a sight-obscuring fence or hedge around outdoor storage areas where such storage areas abut a WD2 zone.
- D. Estuary Shoreland Standards contained in Section 4.110 shall apply,
- E. Determination of Water-Dependent and Water-Related Uses: In determining whether a use is water-dependent or water-related the following definitions shall be applied:
 1. Water Dependent: A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water borne transportation, recreation, energy production or source of water;
 2. Water Related: Uses and activities that do not require direct water access (are not water dependent), but which:
 - a. Provide goods and/or services that are directly associated with other water dependent uses (supplying materials to, or using products of, or water dependent use), and
 - b. If not located near the water, would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality shall involve a subjective consideration of economic, social and environmental consequences of the use).

- F. Building Height: Maximum building height shall be 30 feet,
- G. Agency Notification: The following agencies shall be notified of proposed conditional uses and activities in the WD1 zone:

The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Wildlife Service, National Marine Fisheries, Environmental Protection Agency, U.S. Army Corps of Engineers and the Port of Bay City.

Section 3.060 Waterfront Development Support Zone (WD2). Purpose: The WD2 zone is intended to provide backup area for waterfront uses, and a location for non-water dependent and water-related uses in a waterfront setting.

1. Uses Permitted Outright: In a WD2 zone, the following uses are permitted subject to the standards of subsection 3. below.
 - A. Uses permitted outright in a WD2 zone.
 - B. Water-related industrial uses.
 - C. Water-related commercial uses.
 - D. Equipment, boat and trailer storage areas

2. Conditional Uses Permitted: In a WD2 zone, the following uses are permitted subject to the provisions of Article 6, and subsection 3, below.
 - A. Hotels or motels.
 - B. Multi-family developments.
 - C. Non-water dependent or related commercial uses.
 - D. Support activities and uses necessary for marine industry and/or water-related recreation, including but not limited to;
 1. Recreation vehicle parking areas and camp grounds;
 2. Parking lots;
 3. Other accessory structures related to and necessary for operation of marine industrial and marine recreational uses.
 - E. Dredge material disposal.
 - F. Mitigation, restoration, creation or enhancement.
 - G. Public utility structure.
 - H. Planned unit developments in accordance with Article 10.
 - I. Sorting, storage and handling of logs or lumber in conjunction with a shipping facility or a processing facility which utilizes non-water transport of logs.

3. Standards: In a WD2 zone, the following standards shall apply;
 - A. Lot Size: The minimum lot size shall be the area necessary to support the purposed use, including sufficient area for parking, loading, ingress and egress, and storage of materials. The lot area for multi-family developments shall be the same as the medium density residential (R-1) zone.
 - B. Yards and setbacks: Industrial uses shall be setback a minimum of 10 feet from abutting non-industrial uses.
 - C. Buffers and landscaping: Industrial uses shall establish a sight-obscuring fence or hedge around outdoor storage areas.
 - D. Estuary and Shoreland Standards contained in Section 4.110 shall apply.
 - E. Determination of Water-Dependent and Water-Related Uses: The City shall, when considering a new use or expanded use, make a finding that the use is water-dependent or water-related if it conforms with the following definitions:

1. Water Dependent: A use or activity which can be carried out only on, in, or adjacent to water area because the use requires access to the water body for water borne transportation, recreation, energy production, or source of water;
2. Water-Related: Uses and activities that do not require direct water access (are not water-dependent), but which
 - a. Provide goods and/or services that are directly associated with other water-dependent uses (supplying materials to, or using products of, or water-dependent uses), and
 - b. If not located near the water, would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality shall involve a subjective consideration of economic, social and environmental consequences of the use,)

F. Building Height: Maximum building height shall be 30 feet,

Section 3.070 Dredge Material Disposal Site Protection Overlay Zone (DMD).

Purpose: It is the intent of this overlay zone to designate dredged material disposal sites in the City with respect to present and expected water-dependent development and navigational access requirements and to protect these sites for dredge material operations.

1. Designation of Dredge Material Disposal Sites: The DMD overlay zone shall be designated on Garibaldi Land Use and Zoning maps and shall conform to the dimensions of the priority DMD site(s) specified in the Tillamook Dredge Material Disposal Plan as being acceptable for dredge material disposal. Subsequent revisions to the Tillamook County Dredge Material Disposal Plan shall be recorded by an amendment to the Land Use and Zoning Map.
2. Uses Permitted in a DMD zone: Dredge material disposal is a permitted use in the DMD zone. In addition, only those uses and activities allowed in the underlying zone which do not preempt the site's future use for dredge material disposal are allowed. (Refer to Section 3.070(3).) Such uses and activities are subject to the requirements of the underlying zone.
3. Determination of Preemptive Uses: Incompatible or preemptive uses of the dredge material disposal sites are:
 - A. Uses requiring substantial structural or capital improvements (e.g., construction of permanent buildings);
 - B. Uses that require extensive alteration of the topography of the site, thereby reducing the potential usable volume of the dredged material disposal area (e.g., extensive site grading, elevation by placement of fill materials other than dredged spoils).
 - C. Uses that include changes made to the site that would prevent expeditious use of the site for dredge material disposal. Such uses would delay deposition of dredged materials on the site beyond the period of time commonly required to obtain the necessary federal, state and local dredging and spoil disposal permits (approximately 90 days).
4. Removal of Dredged Material Disposal Site Designation: Sites may be removed by an amendment to the Comprehensive Plan and Zoning Ordinance in the following situations:

- A. After a dredged material disposal site has been filled to capacity and is no longer available for additional dredged material disposal,
 - B. Removal of a dredged material disposal site designation before a site has been filled to capacity only if:
 - 1. Provision is made for a replacement dredged material disposal site of suitable characteristics; or
 - 2. The dredging need, for which the Priority I site was initially designated for dredged material disposal, is withdrawn or reevaluated.
5. Agency notification: The following agencies shall be notified of proposed uses and activities in the DMD overlay zone. The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U.S. Fish and Wildlife Service, Environmental Protection Agency, U.S. Army Corps of Engineers and the Port of Bay City.

Section 3.075 Sensitive Bird Habitat Overlay Zone.

1. Purpose. The purpose of the Sensitive Bird Habitat Overlay Zone is to ensure that habitat areas identified as critical for the Great Blue Heron, is protected from the effects of conflicting uses or activities. This objective shall be achieved through the development of site specific management plans that ensure that proposed uses and activities will neither destroy or result in the abandonment of sensitive bird habit areas.
2. Definition of Nest Sites. All Great Blue Heron rookeries, identified in the Comprehensive Plan shall be subject to the requirements of the Sensitive Bird Habitat Overlay Zone. When additional sites are identified by the Oregon Department of Fish and Wildlife they shall be added to the Comprehensive Plan, and become subject to the requirements of the Sensitive Bird Habitat Overlay Zone.
3. Development and Uses Permitted. Uses permitted in the underlying zone(s) are permitted or conditionally permitted in the Sensitive Bird Habitat Overlay Zone subject to the additional procedure and requirements of Section 3.075(4). The Overlay Zone does not regulate forest practices. Requirements of the Forest Practices Act will be applied to sensitive bird habitat located on forest lands outside the urban growth boundary through the requirements of the Oregon Department of Forestry.
4. Development and Use Criteria. The following review procedure and criteria shall apply:
 - A. The review procedure is initiated when Garibaldi receives a request for a permit that may affect a sensitive bird habitat;
 - B. A proposed use or activity involving road building or land clearing is considered to have the potential for affecting a sensitive bird habitat if it is located within 600 feet of a heron rookery. All other uses or activities are considered to have the potential for affecting a sensitive bird habitat if it is located within 300 feet of a heron rookery,
 - C. If a proposed use or activity meets the locational criteria of subsection 3.075(4)(B), Garibaldi shall notify the Oregon Department of Fish and Wildlife and the person proposing the use or activity,
 - D. Upon notification, the Oregon Department of Fish and Wildlife shall review the proposed use of activity and make a determination of whether the use or activity has the potential for adversely affecting a sensitive

bird habitat area. In making this review and determination the Oregon Department of Fish and Wildlife shall consult with the affected landowner(s), the City of Garibaldi and appropriate state agencies. The determination shall be completed within ten working days of the receipt of notice from Garibaldi.

- E. If the Oregon Department of Fish and Wildlife determines that the sensitive habitat will not be affected, it shall so notify the City of Garibaldi and the City may proceed with the processing of the permit application.
- F. If the Oregon Department of Fish and Wildlife determines that a sensitive habitat would be affected, the person proposing the use or activity shall prepare a site specific habitat protection plan. The plan shall demonstrate that the proposed development can be accomplished without conflicting with or jeopardizing the sensitive bird habitat area. The plan shall consider nesting trees, critical nesting periods, roosting sites and buffer areas. The habitat protection plan shall be prepared in cooperation with, and approved by, the Department of Fish and Wildlife.
- G. The City shall incorporate the requirements of the Oregon Department of Fish and Wildlife approved habitat protection plan into any action it takes on the proposed development.

Section 3.080 Estuary Zones, General Use Priorities and Areas Included.

- 1. General Priorities: Estuary zones shall be applied to all estuarine water, intertidal areas, submerged and submersible lands and tidal wetlands up to the line of non-aquatic vegetation of the Mean Higher High Water (MHHW) line, whichever is most landward.
- 2. Uses Permitted Outright: The following uses are permitted outright within all estuary zones.
 - A. Maintenance and repair of existing structures or facilities not involving a regulated activity. For the purpose of this ordinance, "existing structures or facilities" are defined as:
 - 1. Structures or facilities in current use or good repair as of the date of adoption of this ordinance (including structures or facilities which are in conformance with the requirements of this ordinance and non-conforming structures or facilities established prior to October 7, 1977.)
 - B. Low-intensity, water-dependent recreation, including but not limited to fishing, crabbing, clamming, wildlife observation, swimming and hunting.
 - C. Research and educational observation.
 - D. Grazing of livestock.
 - E. Fencing, provided that it is not placed across publicly owned lands or publicly owned intertidal areas so as to restrict public access to, or recreational boating access across said lands and intertidal areas.
 - F. Passive restoration.
 - G. Dike maintenance and repair for:
 - 1. Existing serviceable dikes (including those that allow some seasonal inundation); and

2. Dikes that have been damaged by flooding, erosion or tidegate failure where the property has not reverted to estuarine habitat; and
3. Dikes that have been damaged by flooding, erosion or tidegate failure where the property has reverted to estuarine habitat only if the property is in the Farm, F-1 zone and it has been in agricultural use for 3 of the last 5 years and reversion to estuarine habitat has not occurred more than 5 years prior.

Garibaldi will rely on the U.S. Army Corps of Engineers and the Division of State Lands to determine whether an area has reverted to estuarine influence,

For the purpose of this subsection, agricultural use means using an area for pasture several months of the year or harvesting this area once a year,

Section 3.090 Estuary Natural Zone.

1. Purpose and Areas Included: The purpose of the EN zone is to provide for preservation and protection of significant fish and wildlife habitats and other areas which make an essential contribution to estuarine productivity or fulfill scientific, research or educational needs. Except where a goal exception has been taken in the Garibaldi Comprehensive Plan, the EN zone includes the following areas within the estuary:
 - A. Major tracts of tidal marsh, intertidal flats and sea grass and algae beds. The "major tract" determination is made through a consideration of all the following criteria: size/extent; habitat value; scarcity; and degree of alteration.
2. Uses Permitted with Standards: The following uses are permitted with standards within the EN zone, provided that the procedures in Section 4.120 and the development standards in Section 4.110 have been met:
 - A. Maintenance and repair of existing structures or facilities involving a regulated activity.
 - B. Navigational aids.
 - C. Vegetative shoreline stabilization.
 - D. Temporary dikes for emergency flood protection.
 - E. Mooring buoy.
 - F. Tidegate installation in existing functional dikes.
 - G. Bridge crossing and bridge crossing support structures.
3. Conditional Uses: The following uses are conditional within the EN zone and may be permitted by the Planning Commission, subject to the procedures in Section 4.120, provisions of Article 6 and the development standards in Section 4.110:
 - A. Aquaculture and water-dependent portions of aquaculture facilities which do not require dredging or fill.
 - B. Rip-rap to protect unique natural resources, historical and archaeological values, public facilities and uses existing as of October 7, 1977, and uses allowed by this zone.
 - C. Water, sewer, gas or phone lines.
 - D. Electrical distribution lines and line support structures.
 - E. Active restoration and estuarine enhancement.
 - F. Temporary low water bridges.
 - G. Temporary alterations.
 - H. Boat ramps for public use where no dredging or fill for navigational access is needed.

I. Water intake structures for out-bay aquaculture.

4. Regulated Activities: The following regulated activities are permitted within the EN zone, provided that the requirements of Section 4,110 have been met, Regulated Activities shall be reviewed by the procedure provided in Section 4.120.

A. Regulated activities for the purpose of on-site maintenance and repair of existing structures or facilities, limited to;

1. Dredging for on-site maintenance of;

- a. Drainage tiles;
- b. Drainage ditches;
- c. Tidegates;
- d. Bridge crossing support structures;
- e. Water, sewer, gas or phone lines;
- f. Electrical distribution lines;
- g. Outfalls.

2. Fill or rip-rap for on-site maintenance of:

- a. Dikes
- b. Bridge crossing support structures or other land transportation

3. Replacement of piling.

B. Rip-rap for structural shoreline stabilization and protection of uses allowed in this zone.

C. Piling installation for:

- 1. Navigational aids;
- 2. Aquaculture facilities;
- 3. Bridge crossing support structures;
- 4. Public boat ramps.

D. Dredging for installation of:

- 1. Water, sewer, gas or communication lines;
- 2. Electrical distribution lines;
- 3. Tidegates in existing dikes adjacent to EN zones;
- 4. Water intake facilities.

E. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.

F. Regulated activities in conjunction with temporary alterations,

G. Fill for installation of public boat ramps or bridge crossing support structures.

H. Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.

Section 3.106 Estuary Conservation 1 (EC1) Zone

1. Purpose and Areas Included: The purpose of the EC1 zone is to;
- A. Provide for long-term utilization of areas which support, or have the potential to support, valuable biological resources;
 - B. Provide for long-term maintenance and enhancement of biological productivity;
 - C. Provide for the long-term maintenance of the aesthetic values of estuarine areas, in order to promote or enhance the low-intensity recreational use of estuarine areas adjacent to rural or agricultural shorelands,

Except where a goal exception has been taken in the Garibaldi Comprehensive Plan, the EC1 zone includes the following areas within the Tillamook Bay Estuary;

- A. Tracts of tidal marshes, tideflats, seagrass and algae beds which are smaller or of less biological importance than those designated as Estuary Natural (EN) ; and
 - B. Productive recreational or commercial shellfish and fishing areas;
 - C. Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of EN or ED units.
 - D. Areas with potential for shellfish culture (excluding platted oyster beds in Tillamook Bay).
2. Uses Permitted with Standards: The following uses are permitted with standards within the EC1 zone, provided that the procedures in Section 4.120 and the development standards in Section 4.110 have been met.
- A. Maintenance and repair of existing structures or facilities involving a regulated activity;
 - B. Navigational aids;
 - C. Vegetative shoreline stabilization;
 - D. Structural shoreline stabilization, limited to rip-rap;
 - E. Boat dock in conjunction with one or more private residences. Single purpose private docks shall be limited to maximum of 150 square feet in size;
 - F. Water, sewer, gas or phone lines;
 - G. Electrical distribution lines and line support structures;
 - H. Active restoration and estuarine enhancement;
 - I. Temporary dikes for emergency flood protection;
 - J. Mooring buoys;
 - K. Temporary low water bridge;
 - L. Tidegate installation in existing functional dikes adjacent to EC1 zones;
 - M. Aquaculture and water-dependent portions of aquaculture facilities not requiring dredge or fill other than incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks,
 - N. Bridge crossings and bridge crossing support structures,
 - O. Boat ramps for public use where no dredging or fill for navigational access is needed.
3. Conditional Uses: The following uses are conditional within the EC1 zone and may be permitted by the Planning Commission, subject to the provisions of Article 6, procedures in Section 4.120 and the development standards in Section 4.110;

- A. Water-dependent portions of aquaculture facilities which require dredge or fill.
 - B. Water-dependent recreational facilities, including;
 - 1. Boat ramps requiring dredging or fill for navigational access;
 - 2. Community boat docks in conjunction with a subdivision or planned development;
 - 3. Public or commercial docks and moorage for recreational marine craft (including seaplanes) and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area;
 - C. Mining and mineral extraction;
 - D. Storm water and treated sewer outfall;
 - E. Bulkheads for structural shoreline stabilization;
 - F. Temporary alterations;
 - G. Minor navigational improvements.
4. The following regulated activities are permitted within the EC1 zone, provided that the requirements of Section 4.110 have been met. Regulated Activities shall be reviewed by the procedure provided in Section 4.120,
- A. Regulated activities in association with on-site maintenance and repair of existing structures or facilities, limited to:
 - 1. Dredging for on-site maintenance of;
 - a. Drainage tiles.
 - b. Drainage ditches.
 - c. Tidegates.
 - d. Bridge crossing support structures.
 - e. Water, sewer, gas or phone lines.
 - f. Electrical distribution lines.
 - g. Outfalls.
 - 2. Fill or rip-rap for on-site maintenance of:
 - a. Dikes.
 - b. Bridge crossing support structures or other land transportation facilities.
 - 3. Replacement of Piling. Piling installation for:
 - a. Water-dependent recreational facilities.
 - b. Aquaculture facilities.
 - c. Navigational aids.
 - d. Bridge crossing support structures or other land transportation facilities.
 - e. Bulkheads.
 - C. Rip-rap for structural shoreline stabilization and protection of uses allowed by this zone.
 - D. Dredging for:
 - 1. Bridge crossing support structure installation,
 - 2. Storm water or treated sewage outfall installation.

3. Tidegate installation in existing functional dikes adjacent to EC1 zones.
 4. Water, sewer, gas or phone line installation,
 5. Electrical distribution line installation,
 6. Mining or mineral extraction,
 7. Water intake facilities,
 8. Boat ramps,
 9. Minor navigational improvements,
 10. Water-dependent portions of aquaculture facilities,
- E. Fill for:
1. Bridge crossing support structures,
 2. Structural shoreline stabilization,
 3. Boat ramps,
 4. Water-dependent portions of aquaculture facilities,
- F. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.
- G. Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks,
- H. Regulated activities in conjunction with temporary alterations,

Section 3.108 Estuary Conservation 2 (EC2) Zone.

1. Purpose and Areas Included: The purpose of the EC2 zone is to:
 - A. Provide for long-term use of renewable resources that do not require major alteration of the estuary except for purposes of restoration,
 - B. Other than minor navigational improvements, aquaculture facilities and water-dependent recreational facilities, provide for new water-dependent industrial and commercial uses only where dredging and filling are not necessary and where consistent with the resource capabilities of the area and purposes of the management unit.

The EC2 zone includes the following areas:

 - A. Tracts of significant habitat not included in EN or EC1 zones;
 - B. Areas containing existing water-dependent development which require periodic dredging to maintain water access;
 - C. Partially altered estuarine areas or estuarine areas adjacent to existing water-dependent development and which do not otherwise qualify for EN, EC1 or ED designations; and
 - D. Subtidal channel areas which require minor navigational improvements, navigable areas which are adjacent to urbanized areas, which do not qualify for EN or EC1 designation and which are not federally authorized and maintained navigation channels.
2. Uses Permitted with Standards: The following uses are permitted with standards within the EC2 zone, provided that the procedures in Section 4.120 and the development standards in Section 4.110 have been met,
 - A. Aquaculture and water-dependent portions of aquaculture facilities not requiring dredging or fill other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks,
 - B. Navigational aids.
 - C. Vegetative shoreline stabilization.
 - D. Structural shoreline stabilization, limited to rip-rap,

- E. Boat dock in conjunction with one or more private residences, single purpose private docks shall be limited to a maximum of 150 square feet in size.
- F. Tidegate installation in existing dikes adjacent to EC2 zones,
- G. Water, sewer, gas or phone lines.
- H. Electrical distribution lines and line support structures,
- I. Temporary dikes for emergency flood protection,
- J. Active restoration and estuarine enhancement.
- K. Water intake facilities for out-bay aquaculture requiring dredge or fill,
- L. Temporary low water bridges.
- M. Boat ramps for public use where no dredging or fill for navigation access is needed.
- N. Maintenance and repair of existing structures or facilities involving a regulated activity.
- O. Bridge crossing and bridge crossing support structures,

3. Uses Permitted Conditionally: The following uses are conditional within the EC2 zone, and may be permitted by the Planning Commission, subject to the provisions of Article 6, the procedures in Section 4.120 and the development standards in Section 4.110.

- A. Water-dependent recreational facilities, including:
 1. Boat ramps which require dredging or fill for recreational access,
 2. Community boat docks in conjunction with a subdivision or planned development.
 3. Public or commercial docks, moorages and marinas for recreational marine craft (including seaplanes) and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.
- B. Water-dependent commercial facilities not requiring the use of dredging or fill, including moorages, docks and marinas for commercial marine craft, (including seaplanes) and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area,
- C. Water-dependent industrial facilities not requiring the use of dredging or fill, including:
 1. Piers, wharfs and other terminal transfer facilities for passengers or water-borne commerce, such as fish, shellfish, metal, timber or timber products.
 2. Water intake and discharge structures.
 3. Water access structures of facilities which require access to a water body as part of the manufacturing, assembly, fabrication or repair of marine craft or marine equipment, due to the size of the craft or equipment.
- D. Other water-dependent uses not requiring the use of dredging or fill, A use is determined to be water-dependent when it can be carried out only on, in or adjacent to water, and the location or access is needed for:
 1. Water-borne transportation.
 2. Recreation.
 3. A source of water (such as energy production, cooling of industrial equipment or waste water, or other industrial processes),
- E. Navigational structures, limited to floating breakwaters.
- F. Mining and mineral extraction.

- G. Storm water and sewer outfalls,
- H. Bulkheads for structural shoreline stabilization,
- I. Water-dependent portions of aquaculture facilities requiring dredging or fill.
- J. Temporary alteration.
- K. Minor navigational improvements,

4. Regulated Activities: The following regulated activities are permitted within the EC2 zone, provided that the requirements of Section 4,110 have been met. Regulated Activities shall be reviewed by the procedure provided in Section 4,120.

A. Regulated Activities in association with on-site maintenance and repair of existing structures or facilities limited to:

1. Dredging for on-site maintenance of;

- a. Drainage tiles,
- b. Drainage ditches,
- c. Tidegates,
- d. Bridge crossing support structures,
- e. Water, sewer, gas or phone lines,
- f. Electrical distribution lines,
- g. Outfalls,

2. Fill or rip-rap for on-site maintenance of;

- a. Dikes,
- b. Bridge crossing support structures or other land transportation facilities,
- c. Shoreline stabilization structures,

3. Replacement of pilings.

E. Fill for:

- 1. Bridge crossing support structures,
- 2. Structural shoreline stabilization,
- 3. Water-dependent recreational activities,
- 4. Water-dependent portions of aquaculture facilities,
- 5. Boat ramps.

F. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.

G. Incidental dredging for harvest of benthic species or removal of in-water structure such as stakes or racks,

H. Regulated activities in conjunction with temporary alterations,

Section 3.110 Estuary Development (ED) Zone.

1. Purpose and Areas Included: The purpose of the ED zone is to:

- A. Provide for long-term maintenance, enhancement, expansion or creation of structures or facilities for navigational and other water-dependent commercial, industrial or recreational uses.
- B. Provide for the expansion or creation of other commercial, industrial or recreational facilities.

The ED zone includes the following areas within Development Estuaries;

- A. Areas which contain public facilities which are utilized for shipping, handling or storage of water-borne commerce, or for moorage or fueling of marine craft.
- B. Sub-tidal channel areas adjacent or in proximity to the shoreline which are currently used or needed for shallow-draft navigation (including authorized, maintained channels and turning basins),
- C. Areas of minimum biologic significance needed for uses requiring alteration of the estuary not included in EN, EC1, EC2 zones,

2. Uses permitted with Standards: The following uses are Permitted with Standards within the ED zone, provided that the procedures in Section 4.120 and the development standards in Section 4.110 have been met,

- A. Maintenance and repair of existing structures or facilities involving a regulated activity.
- B. Navigational structures and navigational aids,
- C. Vegetative shoreline stabilization.
- D. Structural shoreline stabilization.
- E. Tidegate installation in existing dikes adjacent to ED zones,
- F. Water, sewer, gas or phone lines.
- G. Electrical distribution lines and line support structures,
- H. Temporary dikes for emergency flood protection.
- I. Mooring buoys.
- J. Temporary low-water bridges.
- K. Temporary alteration.
- L. Active restoration or estuarine enhancement,
- M. Bridge crossing and bridge crossing support structure,
- N. Water-dependent commercial uses, including docks, moorages, marinas for commercial marine craft (including seaplanes).
- O. Water-dependent industrial uses, including;
 - 1. Piers, wharfs, and other terminal and transfer facilities for passengers or water-borne commerce, such as fish, shellfish, metal, timber or timber products.
 - 2. Water intake and discharge structures,
 - 3. Water access structures of facilities which require access to a water body as part of the manufacturing, assembly, or fabrication or repair of marine craft or marine equipment due to the size of the craft or equipment.
- P. Water-dependent public recreational facilities, including;
 - 1. Boat ramps.
 - 2. Commercial docks, moorages and marinas for recreational marine craft (including seaplanes).
- Q. Aquaculture and water-dependent portions of aquaculture facilities,
- R. Other water-dependent uses: A use is determined to be water-dependent when it can be carried out only on, in or adjacent to water, and the location or access is needed for:
 - 1. Water-borne transportation;
 - 2. Recreation;
 - 3. A source of water (such as energy production, cooling of industrial equipment or waste water, or other industrial processed),

3. Conditional Uses: The following uses are conditional within the ED zone, and may be permitted by the Planning Commission subject to the provisions of Article 6, the procedures of Section 4,120 and the development standards in Section 4,110, and only after a finding that the proposed facility does not preclude or unduly conflict with water-dependent use on the site or in the adjacent water-dependent development shorelands.
- A. Water related industrial uses not requiring the use of fill, including but not limited to:
1. Fish or shellfish processing plants,;
 2. Warehouse and/or other storage areas for marine equipment or water borne commerce.
- B. Water-related commercial uses not requiring the use of fill, including but not limited to:
1. Fish or shellfish retail or wholesale outlets.
 2. Marine craft or marine equipment sales establishments,
 3. Sport fish cleaning, smoking or canning establishments,
 4. Charter fishing offices.
 5. Retail trade facilities in which the majority of products are products such as ice, bait, tackle, nautical charts, gasoline or other products incidental to or used in conjunction with a water dependent use.
 6. Restaurants which provide waterfront views and which are in conjunction with a water-dependent or water-related use such as a seafood processing plant or charter office,
- C. In-water sorting, storage and handling of logs in association with water-borne transportation of logs.
- D. Other water-related uses not requiring the use of fill, A use is determined to be water-related when the use:
1. Provides goods and/or services that are directly associated with water-dependent uses (supplying materials to, or using products of, water-dependent uses).
 2. If not located near the water, would experience a public loss of quality in the goods and services offered. Evaluation of public loss of quality will involve a subjective consideration of economic, social and environmental consequences of the use,
- E. Accessory uses or structures in conjunction with a conditional use listed in A-D above, limited in size to a maximum of 10% of the lot or parcel size.
- F. Mining and mineral extraction.
- G. Storm water and sewer outfalls.
- H. Non-water dependent and non-water related uses not requiring the use of fill.
- I. New dike construction if:
- J. Temporary alterations
1. Required for a water-dependent use for which there is a public need and for which no practicable upland locations exist,
 2. Adverse impacts are avoided or minimized to be consistent with the resource capabilities and purposes of the area,

4. Regulated Activities: The following regulated activities are permitted within the ED zone, provided that the requirements of Section 4,110 have been met, Regulated Activities shall be reviewed by the procedure provided in Section 4.120.
- A. Regulated activities in association with on-site maintenance and repair of existing structures or facilities.
 - B. Dredging for:
 - 1. Maintenance of existing facilities.
 - 2. Navigational improvements.
 - 3. Water-dependent portions of aquaculture operations,
 - 4. Water-dependent use.
 - 5. Mining and mineral extraction.
 - 6. Bridge crossing support structure installation.
 - 7. Outfall installation.
 - 8. Water, sewer or gas line installation,
 - 9. Electrical distribution line installation,
 - 10. Tidegate installation in existing dikes adjacent to ED zones,
 - C. Fill for:
 - 1. Water-dependent uses.
 - 2. Water-dependent portions of aquaculture facilities,
 - 3. Navigational structures or navigational improvements,
 - 4. Structural shoreline stabilization,
 - 5. Bridge crossing support structures,
 - 6. New dike construction.
 - D. Piling and dolphin installation in conjunction with a Permitted with Standards or Conditional Use within this zone.
 - E. Rip-rap for structural shoreline stabilization or protection of uses allowed by this zone.
 - F. Dredged material disposal in an approved DMD site or in conjunction with an approved fill project, subject to state and federal permit requirements for dredged material disposal.
 - G. Regulated activities in conjunction with an approved active restoration or estuarine enhancement project.
 - H. Flow-lane disposal of dredge material, subject to state and federal permit requirements.
 - I. Incidental dredging for harvest of benthic species or removal of in- water structures such as stakes or racks.
 - J. Regulated activities in conjunction with temporary alterations.
5. Additional Requirements: Garibaldi Boat Basin Exception Area: Development shall be limited to that described in the goal exception for the expansion of the Garibaldi Boat Basin.

Section 3.120 Hillside Overlay Zone.

1. Purpose. The Hillside Overlay Zone applies to all areas of the City where the slope of the land is 20 percent or greater. The intent of the Zone is establish special criteria and procedures for development in a way that the potential for property damage and adverse impacts on the natural environment are reduced, so that safe, orderly and beneficial development in the zone results. For the purposes of this section, development is defined as any alteration of the land surface greater than two feet in depth by construction of any kind, including

hand or machine grading, filling, cutting and other earth moving activities, and/or construction of a building, road, driveway, parking area or other structure. Normal landscaping activities are not regulated by this section,

2. Area Affected. Areas of land with a slope of more than 20 percent are identified on a map titled "Slope, Garibaldi, Oregon" which is contained in the Comprehensive Plan of the City of Garibaldi. The boundaries of this overlay district are consistent with information available to the City on the slope of parcels within the City. Boundaries may be changed where site specific survey information shows that the slope of a given parcel of land is less than 20 percent. Where such information is provided, the requirements of the Hillside Overlay Zone are not applicable.
3. Development and Uses Permitted. Any use permitted outright or conditional use permitted in the underlying zone may be permitted within the boundaries of the Hillside Overlay Zone subject to the procedures and development and use criteria of Sections 3.120(4) and 3.120(5).
4. Procedure. The requirements of the Hillside Overlay Zone shall be met prior to the issuance of a building permit. The requirements of this Section shall also be met in conjunction with any request for approval of a subdivision, or a major, or minor partition, or planned unit development. Where the requirements of the Hillside Overlay Zone are met as part of the review and approval of a subdivision, major partition, or minor partition, or planned unit development, no further review, prior to the issuance of a building permit, will be required for property located within an approved subdivision, major partition or minor partition, or planned unit development.
5. Development and Use Criteria.
 - A. The City Planner, at the direction of the City Council, shall require the following reports be provided by an applicant who proposes to develop land within the Hillside Overlay Zone. The cost of all reports shall be borne by the applicant.
 1. Geologic Site Investigation. This report shall include an adequate description, as defined by the Building Official, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and recommendations on specific engineering or construction methods which will eliminate or minimize to an acceptable level any identified geologic hazards. The report shall be prepared by a registered geologist.
 2. Grading Plan. This plan shall include the following information:
 - a. Existing and proposed contours (Five-foot intervals) of property;
 - b. Details of terrain and area drainage;
 - c. Location of any existing buildings or structures on the property where the work is to be performed, the location of any existing buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations, and proposed or approximate locations of structures relative to adjoining topography;
 - d. The direction of drainage flow and the approximate grade of all streets.

- e. Limiting dimensions, elevations, or finish contours to be achieved by the grading, including all cut and fill slopes, proposed drainage channels, and related construction;
- f. Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains; The grading plan shall be prepared by a registered civil engineer,

3. Erosion Control Plan. This plan shall describe measures to be taken to stabilize slopes and minimize soil erosion during construction,

B. The following requirements are applicable to geologic site investigations:

1. The burden of proof shall be upon the applicant to show construction feasibility in hazardous areas. A proposed use will only be permitted where:
 - a. The site investigation indicates that there is not a hazard to the use proposed on the site or to properties in the vicinity.
 - b. The site investigation specifies engineering or construction methods which will eliminate or minimize to an acceptable level the identified hazard.
2. Where a site investigation report concludes that an engineering solution will solve an indicated problem, the Building Official shall require that the additional standards and requirements set forth in the geologic hazard report be a requirement of the building permit.
3. Where the proposed development includes grading, the site investigation report shall include conclusions and recommendations concerning grading procedures as well as conclusions and recommendations concerning the adequacy of sites and streets to be developed by the proposed grading.
4. The City Planner may recommend to the City Council an independent review of the site report, particularly where the geologist or engineer has a financial interest in the property to be developed. The Council may require the preparation of such a report prior to issuance of a building permit. The cost of the independent review shall be borne by the property owner or developer.
5. The degree of protection from problems caused by geologic hazards which is required by this section is considered reasonable for regulatory purposes. This Ordinance does not imply that uses permitted will be free from geologic hazards. This Ordinance shall not create liability on the part of the City or by any officers, employee or official thereof for any damages due to geologic hazards that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

C. The following requirements are applicable to activities undertaken in conjunction with a grading plan.

1. Cuts.

- a. The slope of cut surfaces shall be not steeper than is safe for intended and shall be not steeper than 2 horizontal to 1 vertical unless the applicant submits a geologic site investigation report stating the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property.
- b. Cuts shall not remove the toe of any slope where a potential landslide or erosion hazard exists.

2. Fills:

- a. Fill slopes shall not be constructed on natural slopes steeper than two horizontal to one vertical.
- b. The ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, topsoil and other unsuitable materials, scarifying to provide a bond with the new fill and, where slopes are steeper than five to one and the height is greater than 5 feet, by benching into sound bedrock or other competent materials as determined by a soils engineer.
- c. Detrimental amounts of organic material shall not be permitted in structural fills. No rock or similar material greater than twelve inches in diameter shall be placed in a structural fill. The Building Official may permit placement of larger rock if a soils engineer designs a method of placement, continually inspects the placement and certifies the stability of the fill.
- d. Fills will be compacted to a minimum of 90% of maximum density as determined by Uniform Building Code Standards No. 70-1. An engineer shall certify all structural fill as meeting minimum bearing capacity for the intended use.

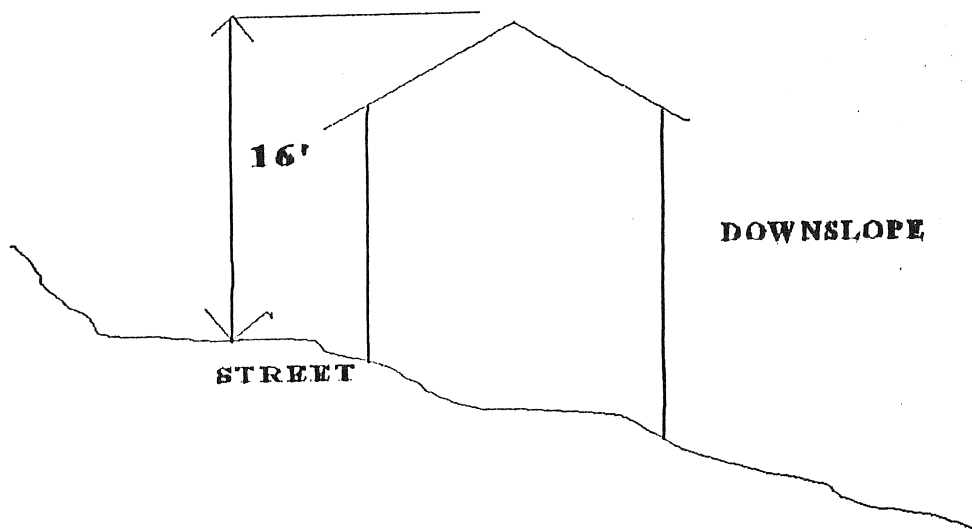
D. The following requirements are applicable to drainage facilities:

1. All cut and fill slopes shall be provided with subsurface drainage as is necessary for stability.
2. All roof and foundation drainage must be collected, controlled, and directed to either a City street, a storm drain or to a natural drainageway if it is acceptable to the Public Works Director.
3. Other alternative methods of storm water disposal may be approved by the Public Works Director.

E. Erosion Control Measures. The following standards are a minimum requirement for the purposes of minimizing soil erosion. The final program for soil stabilization may vary as site conditions and development programs warrant. These minimum guidelines are not intended to resolve all project soil erosion conditions. The applicant is responsible for containing all soil on the project site.

1. Prior to approval of building permit, only the removal of existing vegetation may be carried out for surveying or planning of structures. Cutting of deciduous trees over six inches (6") diameter and conifers over four inches (4") at a height of four and

- one half feet above ground level shall only be carried out after the approval of the building permit.
2. If top soil is to remain stockpiled during a rainy season, seeding or other stabilization measures are required.
 3. All areas which will, by necessity, be left bare after September 30th shall be seeded to a cover crop (i.e., cereal rye, annual rye grass, perennial rye grass). Mulching is an alternative to seeding.
 4. Means shall be devised to prevent sediment laden water from entering any storm sewer facilities.
 5. Vegetation shall be established as soon as possible after completion of grading. The Building Official may require the use of matting prior to seeding on certain slopes.
- F. **Minimum Lot Size.** The minimum lot size for any structure in the Hillside Overlay Zone shall be 8,000 square feet. Where the property proposed for development consists of smaller contiguous lots, such lots shall be aggregated to meet this minimum lot size. Lots of less than 8,000 square feet may be built upon after a variance is granted in accordance with Article 8, Variances.
- G. **Maximum Lot Coverage.** The total amount of the lot on which structures and other impervious surfaces may be constructed shall not exceed 40%.
- H. **Yard Requirements.** The minimum yard requirement for the yard abutting a street or vehicular access way is five (5) feet. Where this standard is used, the minimum rear yard, or yard opposite the yard abutting the street or vehicular access way, shall be 30 feet. The minimum side yard shall be ten (10) feet.
- I. **Building Height.** Within the Hillside Overlay Zone, building heights of structures other than accessory buildings shall be as follows:
1. Structures which are located below or downslope from the street, road, or vehicular access way shall have a maximum height of 16 feet above the centerline of the adjacent street, road or access way.
 2. Structures other than those described in (1) above shall adhere to the height requirements of the underlying zone.



(Note: Measurements shall be taken at the midpoint of the structure at its highest point perpendicular to the street.)

- J. Uncovered vehicle access structures such as bridges may be located in the front yard setback.

ARTICLE 4. SUPPLEMENTAL PROVISIONS

Section 4.010 Access Requirements. Every lot shall abut a street, lane, or alley for at least 25 feet, or have vehicular access or easement,

Section 4.020 Clear Vision Areas. A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad,

1. A clear vision area shall consist of a triangular area, two sides of which are lot lines, measured from the corner intersection of the street lot lines for a distance specified in this regulation (15 ft.), or, where the lot lines have rounded the corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of each is a line across the corner of the lot joining the nonintersecting ends of the other two sides of the triangle.
2. A clear vision area shall contain no planting, fence, wall structure, or temporary or permanent obstruction exceeding 2.5 feet in height, measured from the street center line grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of 8 feet above the grade level.

Section 4.030 Maintenance of Minimum Ordinance Requirements. No lot area, yard, other open space, or off-street parking or loading area existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance,

Section 4.040 Dual Use of Required Open Space. No required open space shall be used for other purposes such as the construction of carports or auxiliary buildings. This provision shall apply to all lot coverage requirements,

Section 4.042 Multifamily or Apartment Siting Criteria. In any zone where a multifamily dwelling, condominium or apartment structure is proposed, the Planning Commission shall review the plans under the following criteria;

- 1, The placement of the structure takes advantage of natural features such as streams, shorelines, or hillsides. Existing trees are retained when ever feasible.
- 2, Ingress and egress points shall be located so as to minimize impact on any adjacent residential uses. In the downtown area, access shall be limited wherever possible to side streets, rather than Garibaldi Avenue,
- 3, Parking areas are located to minimize impact on any adjacent residential uses, Parking areas which provide for eight or more vehicles shall be screened from adjacent residential uses by means of a fence or sight- obscuring hedge,
- 4, In the R-1 zone, a minimum of 25% of the lot area shall be devoted to natural open space or landscaping. In the C-1 zone, a minimum of 20% of the lot area shall be devoted to natural open space or landscaping for family oriented developments, and 10% of the lot area shall be devoted to natural open space or landscaping for senior citizen/adult handicapped housing. A fenced playground be provided for all family oriented developments,
- 5, Where the proposed structure is located in a residential zone or abuts a residential zone, the following setbacks shall be met,
 - A. Front yard: one-story structure 10 feet
two-story structure 15 feet
 - B. Rear yard: one-story structure 10 feet
two-story structure 15 feet
 - C. Side yard: one-story structure 5 feet
two-story structure 10 feet
- 6, In the downtown core area, multifamily or apartment complexes shall include a commercial use with frontage on US 101,
- 7, Vegetation which attains a mature height of six feet may be required in order to screen the development from adjacent dwellings.

Section 4.043 Historic Site Protection. Prior to the issuance of a building permit, any proposal for the exterior alteration of historic portions of the Garibaldi Coast Guard Station shall be reviewed by the Planning Commission to insure that the materials and improvements are consistent with the historic character of the building. The Planning Commission may seek the advice of the State Historic Preservation Office in making this determination. When the City receives an application for a demolition permit on a historic portion of the Garibaldi Coast Guard Station, it shall put a sixty (60) day freeze on the issuance of the permit. The Planning Commission shall notify the State Historic Preservation Office that a demolition permit has been requested. The sixty day freeze shall provide the State Historic Preservation Office and other interested parties, an opportunity to negotiate for the preservation of the property. If after sixty days the negotiations have been unsuccessful, the city shall proceed with the processing of the demolition permit.

Section 4.050 Sign Requirements.

1. **Purpose:** This section regulates such factors as the size, number, location, illumination and construction of signs with the intent of safeguarding and enhancing the aesthetic character of Garibaldi.

2. **Conformance:** No sign may be erected unless it conforms with the regulations of this section. Sign permits, as required by Section 4,050 (5) must be approved prior to the placement of the sign.

3. **Exempt Signs:** The following signs are exempt from the provisions of this Section:

A. Signs within a building not intended to be visible from the exterior of a building.

B. Signs legally erected in a street right-of-way,

C. Three flags of national or state governments.

4. **General Sign Regulations:** The following general provisions shall govern all signs, in addition to all other applicable provisions pertaining to signs:

A. Sign Face Area.

1. The area of sign faces enclosed in frames or cabinets is determined by the outer dimensions of the frame or cabinet surrounding the sign face (see Figure 1). Sign area does not include foundations, supports and other essential structures which do not serve as a backdrop or border to the sign. Only one side of a double-faced sign is counted in measuring the sign face area. (To be considered a double-faced sign, the sides of the sign must be flush,

2. When signs are constructed of individual pieces the sign area is determined by a perimeter drawn around all the individual pieces taken together (see Figure 2).

3. For sign structures containing multiple sign modules oriented in the same direction, the sum of the sign area of the individual sign modules are counted as one sign face (see Figure 3).

4. The area of a sign shall be determined according to the following:

a. Rectangle or square: length x width.

b. Triangle: length x width divided by two,

c. Circle: $3.14 \times R^2$, where R is the sign's radius,

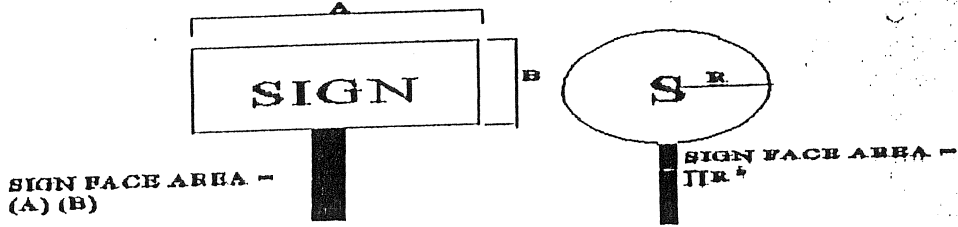
d. Oval: the area contained within a rectangle whose length times width does not exceed 30 square feet,

e. The City shall measure other sign shapes, not listed above, according to the formula it determines to be most appropriate.

- B. Height of Signs. Signs shall conform to the height requirement of the zone in which they are located. The height of a sign or sign supporting structure is measured from the existing grade directly below the sign to the highest point of the sign or sign supporting structure (see Figure 4).
- C. Clearances. Clearances are measured from the existing grade directly below the sign to the bottom of the sign structure enclosing the sign face (see Figure 5).
- D. Sign Placement.
1. Placement. All signs and sign structures shall be erected and attached totally within the site except where permitted to extend into a street right-of-way.
 2. Frontages. Signs allowed based on the length of one site frontage may be placed on another site frontage.
 3. Vision Clearance Areas. No sign may be located within a vision clearance area as defined in Section 4.020.
 4. Vehicle Area Clearances. When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, parking lots, and loading and maneuvering areas.
 5. Pedestrian Area Clearances. When a sign extends over sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign structure shall be at least 8 feet above the grade.
 6. Projecting Signs. Signs shall not project into a public right-of-way, except over a sidewalk. Where a sign projects over a sidewalk, it may project within two feet of the outside edge of the sidewalk.
- E. Signs Not to Constitute a Traffic Hazard. Signs or sign supporting structures shall not be located so as to detract from a motorist's view of vehicular or pedestrian traffic or a traffic sign.
- F. Glare. All signs shall be so designed and located so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated streets and surrounding public or private property.
- G. Prohibited Signs. The following signs are prohibited:
1. Signs that contain flashing elements.
 2. Signs that contain moving, rotating or otherwise animated parts.
- H. Maintenance. All signs, together with their supporting structures, shall be kept in good repair and maintenance. Signs shall be kept free from corrosion, peeling paint or other surface deterioration. The display surfaces of all signs shall be kept in a neat appearance.

SIGN FACE MEASUREMENT

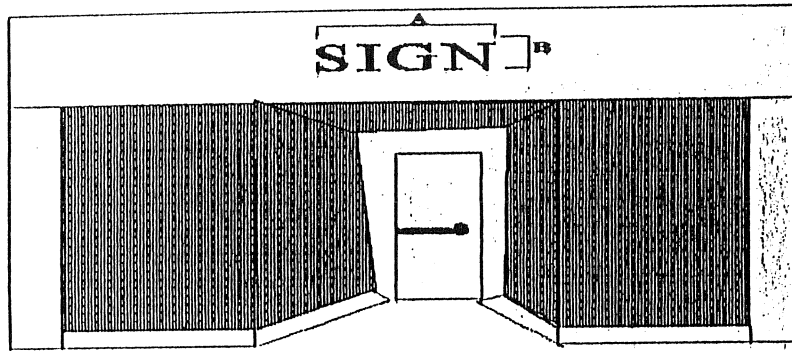
Figure 1



SIGN FACE MEASUREMENT

Figure 2

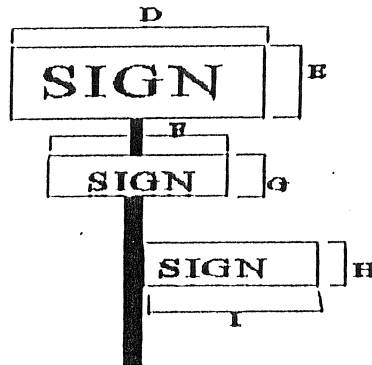
SIGN FACE AREA - (A) (B)



SIGN FACE MEASUREMENT

Figure 3

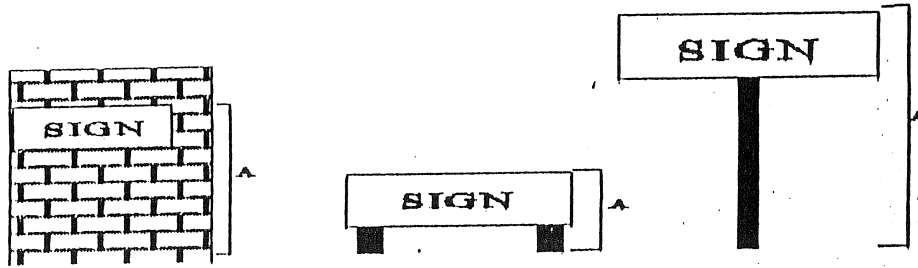
SIGN FACE AREA = (D)(E)+(F)(G)+(I)(H)



SIGN HEIGHT

Figure 4

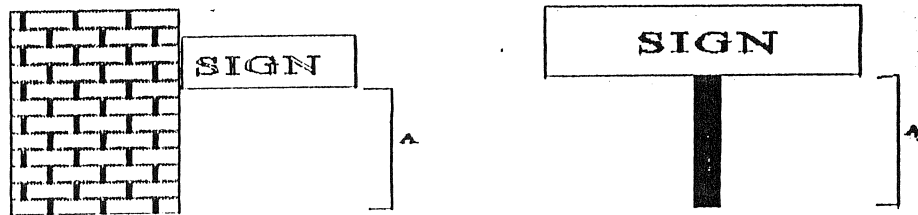
A - HEIGHT



SIGN CLEARANCES

Figure 5

A - CLEARANCE



I, Removal of Abandoned Sign. It is the responsibility of the property owner to remove any abandoned sign within 30 days of the cessation of its use.

J, Permanent Signs. Permanent signs are not allowed on undeveloped sites.

5, Base Zone Sign Regulations.

A, Commercial (C-1), General Industrial (I-1), Water Dependent Development (WD1), Waterfront Development Support Zone (WD2) Sign Requirements.

For all lots in the C-1, I-1, WD-1, or WD-2 Zone the following sizes and types of signs are allowed. All allowed signs must also be in conformance with the regulations in Section 4.050 (3).

1. Total Sign Square Footage Permitted.

- a. The total square footage of all signage, except temporary and lawn signs, associated with a lot shall not exceed one and one-half (1 1/2) square feet of sign face area per lineal foot of site frontage, (Example: a business located on a site with 50 foot of frontage on a street is permitted 75 square feet of sign area),
- b. The total square footage of all temporary signs shall not exceed 100 square feet in total area.

2. Individual Signs.

- a. The maximum sign face area for an individual sign shall be no more than 100 square feet.
- b. Sandwich board or reader board sign shall not be placed on a sidewalk or in a public right-of-way.

3. Types of signs. The following types of signs are permitted; permanent, freestanding, wall, projecting, window, awning, bench, sandwich board, reader board, temporary, incidental, and lawn signs.

B, Medium Density Residential (R-1), and Resource Open Space (R-O) Sign Requirements. For all lots in the R-1 and R-O zones, the following number, sizes, and types of signs are allowed. All allowed signs must also be in conformance with the regulations of Section 4.050 (3).

1. Total Sign Square Footage Permitted.

The total square footage of signage associated with a lot shall not exceed 10 square feet.

2. Individual Signs.

- a. The maximum sign face area for an individual sign shall be no more than 6 square feet.

3. Types of Signs Permitted.

- a. The following types of signs are permitted: permanent incidental, freestanding, wall, projecting, window, temporary, and lawn signs.
- C. Estuarine Zones (EN), (EC1), (EC2), and (ED Sign Requirements. Signs shall be reviewed by the Planning Commission to determine the applicable site frontage to be used. After the site frontage determination, the standards of Section 4.050 (4) (A) shall be applied.

6. Sign Permits:

- A. Sign Permit Required. A sign permit is required for the placement of any new permanent sign with a sign face area of four square feet or more or the alteration of the structure of an existing permanent sign in the C-1, I-1, WD-1, WD-2, EP, EC1 or EC2 zones.
- B. Required Information for a Sign Permit. For purposes of review by the City, a scale drawing of the proposed sign shall be submitted. The drawing shall indicate the dimensions of the sign, location of the sign, any structural elements of the proposed sign, the size and dimensions of any other sign(s) located on the applicant's building or property, and the material of which the sign is to be constructed.
- C. Sign Permit Fee. The fee for a sign permit shall be \$20.00.

7. Variances: Variances to the sign requirements of this section may be approved by the Planning Commission following the procedures of Article 11 where the Planning Commission finds that the variance meets the following criteria:

- A. The variance would permit the placement of a sign with an exceptional design, or there are exceptional circumstance applicable to the lot.
- B. The granting of the variance would not be detrimental to abutting properties,
- C. The granting of the variance would not create a traffic or safety hazard,

8. Nonconforming Signs: For the purpose of this section, a nonconforming sign shall be defined as a sign existing at the effective date of this section which could not be erected under the terms of this section. The following requirements shall apply to nonconforming signs (the requirements of Article 7 are not applicable):

- A. A nonconforming sign may continue to be used.
- B. No nonconforming sign may be enlarged in any manner.
- C. A nonconforming sign which is damaged or destroyed by any means other than the action of the owner of the sign may be replaced with a new sign provided that the new sign conforms to the dimensions of the previous sign.

9. Abandoned Signs or Signs in Disrepair: The city shall notify the owner of the real property, where a sign has been abandoned or allowed to fall into disrepair, and shall require reasonable repair, replacement, or removal within 30 days. If compliance does not occur, the city shall cause removal or repair

of such signs, pursuant to the city's nuisance ordinance. Expenses incurred in the enforcement of the provision shall be paid by the owner of the real property from which it was removed.

10. Administration and Enforcement:

- A. The City shall provide each business license applicant with a current copy of its sign requirements.
- B. A business license must be obtained before any sign for a business may be erected.
- C. Signs may be transferable if the ownership of a business is changed.

Section 4.060 Off-Street Parking and Off-Street Loading Requirements. At the time a new structure is erected or the use of an existing structure is enlarged, off-street parking spaces, loading areas, and access thereto shall be provided as set forth in this section unless greater requirements are otherwise established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this ordinance.

- 1. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission based upon the requirements of comparable uses listed.
- 2. In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the requirements of the several uses computed separately, except where the Planning Commission determines that the various uses are to be used at different times of the day, such that the same parking spaces may be reduced by the number of spaces required by the smaller use.
- 3. Owners of two or more uses, structures, or parcels of land may agree to utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases, or contracts to establish the joint use.
- 4. Required parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not further than 200 feet from the building or use they are required to serve.
- 5. Areas used for standing and maneuvering of vehicles shall have durable surfaces maintained adequately for all weather use and be drained to prevent the ponding of water or the collection of water in a public right-of-way, or the flowing of water across public sidewalks.
- 6. Uses requiring four or more parking spaces shall be served with a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.
- 7. Passenger loading. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.
- 8. Parking spaces shall be of the following dimensions:
 - A. Spaces for normal sized vehicles: 18' by 9'

B. Spaces for compact vehicles (designed as such): 16' by 7'.

9. Spaces for compact vehicles shall be allowed only in uses required to have four or more parking spaces. In those uses, spaces for compact vehicles shall be no more than 50% of the total spaces required.

10. Off-street parking space requirements:

| | |
|--|--|
| A, Dwelling | Two spaces per dwelling unit, |
| B, Motel, hotel, inn guest cottage. | One and one-eighth spaces for each guest accommodation plus two spaces for any manager's dwelling. |
| C, Hospital, nursing home or similar institution | One space for each three beds plus one space for each employee.* |
| D, Church club, or similar place of assembly. | One space for each six seats or one space for each 50 square feet of floor area, |
| E, Library | One space for each 400 square feet of floor area plus one, |
| F, Dance hall, skating rink or similar use. | One space for each 50 square feet of dance or skating area plus one space for each employee*. |
| G, Bowling alley | Two spaces for each alley plus one space for each employee*. |
| H, Retail store, eating or drinking establishment. | One space for each 200 square feet of floor area, plus one space for each employee*. |
| I, Service or repair shop, retail store handling bulky merchandise such as automobiles or furniture. | One space for each 600 square feet of floor area, plus one space for each employee*. |
| J, Bank or office (not medical or dental) | One space for each 600 square feet of floor area, plus one space for each employee*. |
| K, Medical or dental clinic. | One space for each 300 square feet of floor area plus one space for each employee*. |
| L, Schools, grades 1-9. | One space per employee plus adequate parking for busses kept on premises, |
| M, Schools, grades 10-12. | One space for each employee plus one space for each four students. |
| N, Recreation or commercial fishing office. | One space for each two employees plus one space for each three boat riders. |

*Employees per shift or on duty.

Section 4.070 Fence Requirements.

1. Fences located in the clear vision area shall not exceed 2 1/2 feet from the ground level or 2 1/2 feet from the street level, whichever is lower.
2. Fences may be constructed up to the property line, unless jointly owned by adjoining property owners in which case it may be on the property line.
3. All fences or portions thereof shall be located in such a way as to not be detrimental to abutting property, and shall not obstruct views from adjacent property.

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Fences shall not be made of barbed wire or other sharp or dangerous material except commercial fences.

Fences greater than five feet in height shall be referred to the Planning Commission for determination that the fence is in compliance with number 3 above, and is generally attractive in appearance.

Section 4.080 Accessory Structures.

1. Accessory structures shall not be used for human habitation.

2. The maximum square footage of an accessory structure shall be 120 square feet.

3. The maximum height of an accessory structure shall be 10 feet.

4. An accessory structure, including all projections, shall not be closer than 6 feet from any other building.

5. An accessory structure shall be located to the side or the rear of the primary structure, except that it may not be located on the street side of a primary structure.

6. An accessory structure shall meet all setback and lot coverage requirements.

Section 4.090 Home Occupations. The home occupation provision is included in recognition of the needs of many people who are engaged in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters for them, or which, in the nature of the home occupation, cannot be expanded to full-scale enterprise.

It is the intent of this section that home occupations be allowed which are unobtrusive by nature, which do not cause disruption of the surrounding neighborhood or have an adverse effect on the adjacent properties or environment.

1. Standards: A home occupation shall mean any occupation or profession carried on by a person residing on the premises provided the following conditions are satisfied:

- A. No sign is used other than a nameplate not over six square feet in area;
- B. There is not display or outside storage that would indicate that the lot is being used in whole or primarily for purposes other than residential;
- C. The lot, including the building, retains the characteristics of a residential zone.

2. Complaint Procedures: The Planning Commission shall review home occupations upon receipt of two written complaints from two separate households located within 250 feet of the boundary of the affected property, or a complaint from the city building inspector. Complaints shall set forth the nature of the objection. The complaints shall be considered by the Planning Commission at a public hearing. The hearing procedure shall be the same as outlined in Article 11.

Criteria for judging objections shall include:

- A. Generation of excessive traffic.
- B. Monopoly of on-street parking areas.
- C. Frequent deliveries and pickups by motor freight.

- D. Noise in excess of that created by normal residential use (either in terms of volume or hours of occurrence).
- E. Smoke, fumes, or odors in-excess of those created by normal residential use,
- F. Other offensive activities not in harmony with a residential neighborhood,

Action by the Planning Commission. The Commission upon hearing the evidence may:

- A. Approve the use as it exists.
- B. Require the use to be terminated.
- C. Impose appropriate restrictions, such as limiting hours of operation, establishing a phasing out of the use, or other measures insuring compatibility with the neighborhood.

The determination of the Commission becomes final 10 days after the date of decision unless appealed in accordance with Article 11.

Section 4.095 Bed and Breakfast Establishments.

1. The number of guest bedrooms shall be limited to four.
 2. The dwelling shall be owner occupied.
 3. In addition to required off-street parking for the dwelling, one off-street parking space for each guest bedroom shall be provided. In residential zones only, boat trailers and other towed vehicles shall be prohibited from designated parking spaces.
 4. Except as otherwise approved by the Planning Commission, in residential zones only, signs shall be limited to one non-illuminated sign not to exceed six square feet in area. The design, size and placement of the sign shall be approved by the Planning Commission.
- In residential zones only, bed and breakfast establishments shall not be located within 200 foot radius of each other, when such placement would adversely affect the residential character, the property values, health, safety and welfare of the affected area,
6. Bed and breakfast establishments with more than two guest bedrooms shall be licensed and inspected by the State Health Division.
 7. The water and sewer usage of the establishment shall be metered at the expense of the owner.
 8. A yearly business license is required, revocable at any time for non-compliance,

Section 4.100 Recreation Vehicle Parks.

1. Recreational vehicle (RV) camping areas or parks shall be allowed as conditional uses in certain zones.
2. RV areas shall be at least 29,000 square feet in size.
3. RV areas shall be connected to city water and sewer, and shall have toilet facilities, lavatories and showers with hot water in a ratio of one of each fixture per ten RV spaces,

- 4, Each RV space shall be at least 500 square feet, exclusive of common streets, restroom areas or common open space areas.
- 5, All standards of the Oregon State Health Division for tourist facilities must be observed
- 6, Streets within the park and RV parking sites shall be properly surfaced with crushed gravel or asphalt.
- 7, A vegetation buffer or fence of at least 6 feet shall be maintained around the perimeter of the park where abutted by residential area.
- 8, Wherever possible, existing tree cover and natural vegetation shall be maintained,
- 9, Where RV parks are to be located near shoreline areas, they shall be set back from the waterfront at least 50 feet, and shall maintain public access to the water,
- 10, No recreational vehicle shall be used as a permanent dwelling. No permanent or semi-permanent structures, including but not limited to, storage structures, outside appliances, fences of any type, TV or radio antennas, except those normally mounted on RV's, outdoor lighting posts, or outside toilets may be placed on any site in an RV park, nor may any trailer which is designed as permanent living quarters be located on placed on any site.

Section 4.105 Manufactured Dwellings.

- 1, Manufactured dwellings may be placed in those zones where they are permitted. An application for a placement permit, and the payment of a fee, shall be made to the City. The application shall include two copies of a plot plan as well as plans and specifications for any accessory structures. The City may also require a survey by a registered surveyor. The placement permit shall be approved prior to the placement of a mobile home.
- 2, Manufactured dwellings on Individual Lots: A manufactured dwelling placed on an individual lot, other than a lot in a manufactured dwelling park, shall conform to the requirements of the zone in which it is located, and applicable State installation standards and the following additional provisions
 - A. Only one manufactured dwelling shall be located on a lot not less than 3500 square feet in size, and the lot must be owned by the owner of the manufactured dwelling,
 - B. The manufactured dwelling shall have a minimum width of 14 feet and contain a minimum floor area of 800 square feet.
 - C. The manufactured dwelling shall have a roof with a minimum pitch of 3:12. The roofing material shall be composition, shake, shingle or tile,
 - D. The manufactured dwelling shall have siding material, such as horizontal wood, vinyl or aluminum lap siding, similar to that used on houses constructed to the Uniform Building code.
 - E. The manufactured dwelling's wheels, axles and hitch mechanism shall be removed prior to occupancy.
 - F. All load bearing foundations, supports and enclosures shall be installed in conformance with the Oregon Building Code's Agency regulations and with the manufacturer's installation specifications. Manufactured dwellings must also provide a permanent perimeter enclosure or be installed with an approved foundation skirting enclosing the entire perimeter of the home. The skirting material shall be weather resistant,

- and blend with the exterior siding of the manufactured dwelling. The perimeter enclosure must be completed prior to the occupancy of the manufactured dwelling.
- G. Each manufactured dwelling shall be provided with a wooden storage building of at least 96 square feet. The storage building shall be securely fastened to the ground. The building shall be constructed or placed within 90 days of the issuance of the placement permit. A storage building is not required for manufactured dwellings that are provided with a garage.
 - H. The manufactured dwelling shall bear a HUD label of compliance with the Manufactured Housing Construction and Safety Standards Code verifying that the manufactured dwelling is not older than five years at the time of placement.
 - I. The owner of the property agrees, in writing, to remove the foundation and all additions to the manufactured dwelling and to permanently disconnect sewer, water and other utilities if the manufactured dwelling is removed from its foundation. The agreement authorizes the city to perform the work and to place a lien against the property for the cost of the work in the event the owner fails to accomplish the work within 90 days from the date on which the manufactured dwelling is moved from its foundation.

This condition shall not apply in the event the manufactured dwelling is replaced on the original foundation, or on the original foundation as modified by another approved manufactured dwelling within 90 days of the original unit's removal.

Section 4.106 Manufactured Dwelling Parks.

1. Spaces in manufactured dwelling parks shall be sized as follows:
 - A. Spaces for double-wide units (units with a width of 16 feet or greater) shall be a minimum of 5,000 square feet.
 - B. Spaces for single-wide units (units with a width greater than eight feet) shall be a minimum 3,500 square feet.
 - C. Spaces for park model units (park model units are defined as small manufactured dwellings designed for permanent occupancy and do not include recreational vehicles) shall be a minimum of 3,000 square feet.
2. Manufactured dwellings shall be located within their designated spaces in such a way that there shall be a minimum of ten feet between manufactured dwellings or between any manufactured dwelling and any other building in the manufactured dwelling park other than structures accessory to an individual manufactured dwelling.
3. Manufactured dwellings shall be located a minimum of ten feet from any street or road and conform to the clear vision requirements of Section 4.020.
4. Manufactured dwellings shall be located no less than ten feet from any property line. The perimeter of the manufactured dwelling park shall be screened. This screening can take the form of a fence six feet in height or vegetation that attains a maximum mature height of eight feet.
5. Ingress points shall be located to minimize impact on any adjacent residential uses.

- 5, Interior access drives shall be provided within the park, shall be continuous unless provided with adequate turn-around area or cul-de-sac, and shall have a minimum width of 24 feet.
- 7, All access drives within the manufactured dwelling park shall be surfaced according to standards established by the City.
- 8, Each manufactured dwelling space shall have a pad with adequate base, with crushed rock or better surface. The pad shall have a minimum area equal to that of the manufactured dwelling which will be located on the space.
- 9, Off-street parking shall be provided with a minimum of two parking spaces for each manufactured space. Parking spaces shall be of crushed rock or better surfacing. Required access drives shall not be considered as fulfilling this requirement.
- 10, Provisions for storage shall be made as follows:
 - A, A storage building with a minimum floor area of 96 square feet shall be provided for each manufactured dwelling space; and
 - B, A centralized storage area for such items as boats, trailers and camping vehicles shall be provided. Such a storage area shall contain a minimum of 100 square feet for each manufactured dwelling space and be enclosed by a sight-obscuring fence or a vegetative buffer approved by the Planning Commission.
- 11, All manufactured dwelling parks shall be served by the City's sewer and water system. The design and layout of sewer and water lines is subject to the review and approval of the Superintendent of Public Works.

Section 4.110 Estuary and Shoreline Standards.

1, Aquaculture Facilities:

- A, Evidence shall be provided by the applicant and findings made by the City that aquaculture facilities do not prevent access to navigation channels, and that obstruction of access to publicly owned lands and recreation use areas is minimized.
- B, Aquaculture facilities should be designed to minimize their visual impact (view obstruction). Whenever feasible, submerged structures are preferred over floating structures.
- C, The design and construction of an aquaculture facility should consider reclamation and re-use of waste water.
- D, Water diversion structures or man-made spawning channels shall be constructed so as to maintain required stream flows for aquatic life in adjacent streams and avoid significant reduction of acceleration of average water flow in an associated marsh. Water quality policies shall apply.
- E, Water discharge from an aquaculture facility shall meet all federal and state water quality standards and any conditions attached to a waste discharge permit. Water quality policies shall apply.
- F, All state and federal laws governing environmental quality, resource protection, public health and safety, and engineering standards shall be met in the design, siting, construction and operation of aquaculture facilities. This determination shall be made by the Oregon Department of Fish and Wildlife or other state or federal agencies with regulatory and authority over aquaculture facilities.
- G, Aquaculture facilities in Estuary Conservation (EC) Zones, Estuary

Development (ED) Zones and Estuary Natural (EN) Zones shall be permitted only if evidence can be provided by the applicant and finding made by the City that;

1. Aquaculture facilities in Estuary Development (ED) Zones will not preclude the provision or maintenance of navigation or other needs for commercial and industrial water-dependent uses, and will not preempt the use of shorelands especially suited for water-dependent development.
 2. Aquaculture facilities in Estuary Natural (EN) Zones will be consistent with the resource capabilities and purpose of the management unit(s) in which they are to be located. The Oregon Department of Agriculture shall provide these findings for oyster culture and the Oregon Department of Fish and Wildlife shall provide them for other types of aquaculture in instances when Garibaldi finds that it does not have the technical expertise or resources to make them.
 3. Aquaculture facilities in Estuary Conservation (EC) Zones will require a resource capability determination where dredging, fill, or other alterations of the estuary is needed, other than incidental dredging for harvest of benthic species or removal of in-water structures.
 4. Aquaculture facilities in Estuary Natural (EN) Zones will not require dredging or fill other than incidental dredging for harvest of benthic species or removal of in-water structures.
- H. Shellfish culture facilities shall either be located more than 2000 feet away from sanitary sewer outfalls so that there will be no potential health hazard, or shall make provision for purification of water used in the aquaculture operation.
- I. Leasing of publicly owned estuarine water, intertidal areas or tidal wetlands for aquaculture shall be subject to the requirements of the Division of State Lands.
- J. Dredge, fill, shoreline stabilization, piling/dolphin installation or other activities in conjunction with an aquaculture facility shall be subject to the respective standards for these activities.
2. Siting, Design, Construction, Maintenance or Expansion of Dikes;
- A. Diking policy requirements in Garibaldi Comprehensive Plan shall be met,
- B. Proposals for new dike construction or dike maintenance or repair shall be accompanied by a brief statement from the local Soil and Water Conservation Service or a certified engineer stating that:
1. The project is in conformance with good engineering practices and any applicable rules and regulations set forth by the Oregon Division of State Lands and the U.S. Army Corps of Engineers; and
 2. Provides for suitable erosion protection for the dike face; and
 3. Will produce no appreciable flood and erosion potential upstream or downstream of the proposed project.
- C. When temporary dikes are constructed in intertidal areas or tidal wetlands, notice must be given to the Division of State Lands within 24 hours following the start of such activity and their approval for continuation of the project must be obtained (OR 541.615 (4)).

Intertidal areas and tidal wetlands shall be restored by the sponsor of the dike to pre-dike conditions after the removal of temporary dikes,

- D. Fill, shoreline stabilization or other activities in conjunction with dike construction, maintenance or repair shall be subject to the respective standards for these activities.
- E. Repair and maintenance of existing dikes, and construction of new dikes involving fill in intertidal areas and tidal wetlands is subject to the requirements of the State Fill and Removal Law (ORS 541.605-541.665) and the Clean Water Act of 1977 (P.L. 95-217) (applies to fill only)

3. Docks and Moorages:

- A. Docks and Moorages policy requirements in the Garibaldi Comprehensive plan shall be met.
- B. When new construction or expansion of docks and moorages is proposed, evidence shall be provided by the applicant and findings made by the City that:
 1. The size of the facility is the minimum necessary to accommodate the number and size of boats using the facility. Maximum size limit for single purpose private dock (excluding walkways) shall be 150 square feet;
 2. Alternatives such as dryland storage, launching ramps or mooring buoys are impracticable.
- C. To ensure that consideration is given to the beneficial economic and social impacts of moorages on local communities, proposals for new or expanded moorages should include statements on the impacts to local communities derived from increases in employment or increases in commercial or recreational activity.
- D. Open pile piers or secured floats shall be used for dock construction, Piers and floats shall extend no further out into the water than is needed to provide navigational access.
- E. Floating docks shall be designed so that they do not rest on the bottom at low water.
- F. Single purpose docks shall be permitted if evidence is provided by the applicant and findings made by the City that cooperative use facilities (marinas or community docks or mooring buoys) are unavailable, impractical or will not satisfy the need.
- G. Covered or enclosed moorages shall be limited to 10% (in number) of the total moorage spaces of a given moorage.
- H. To avoid contamination of estuarine waters, intertidal areas or tidal wetlands, public docks and moorages should provide enclosed facilities on shorelands for public dumping of oil and emptying of holding tanks.
- I. When docks and moorages are proposed in Estuary Conservation 1 or Estuary Conservation 2 zones, evidence shall be presented by the applicant and findings made by the City that the proposed dock or moorage is consistent with the resource capabilities of the area and the long-term use of renewable resources and does not constitute a major alteration to the estuary. In assessing the resource capabilities of an area, consideration shall be given to the size or intensity of the proposed facility, and its location with respect to adjacent resources.
- J. Docks and moorages in shoreland zones or other areas within the Shoreland Overlay zone shall be subject to shoreland development standards.
- K. Moorages with a capacity greater than 25 boats shall be subject to port facility and marina standards.

- L. Dredging, fill, piling/dolphin installation, shoreland stabilization or other activities in conjunction with the construction of docks and moorages shall be subject to the respective standards for these activities.

4. Dredge Material Disposal:

- A. Dredged material disposal shall occur only in approved dredged material disposal sites, or for fill of development sites which have received appropriate local, state and federal permits. All dredged material disposal policy requirements and fill standards shall apply.
- B. State and federal water quality standards shall be met during all phases of dredged material disposal. Water quality policies shall apply.
- C. The timing of dredged material disposal shall be coordinated with state and federal resource agencies to ensure adequate protection of wildlife habitat, bird nesting areas, fish runs and fish spawning activity and to minimize interference with fishing activities.
- D. Ocean disposal of dredged material shall be permitted only in an ocean disposal site approved by the U.S. Army Corps of Engineers and the Environmental Protection Agency.
- E. With regard to in-water disposal in the river, estuary and ocean;
1. Consideration shall be given to the need for the proposed disposal, and the availability and desirability of alternate sites and methods of disposal that might be less damaging to the environment.
 2. The physical and chemical characteristics of the dredged material should be compared with those of the disposal site, and consideration should be given to matching the dredged material to the capabilities of the site.
 3. In-water disposal requires either an EPA/DEQ water quality certification of a short-term exemption. Polluted materials that cannot meet EPA/DEQ requirements for ocean disposal shall be disposed of on non-aquatic sites designed to properly settle out all pollutants prior to discharge back into the aquatic system. Dredged material disposal shall not be permitted in the vicinity of a public water supply intake.
 4. Flow-lane disposal of dredged material shall be monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of the affected natural and conservation management units.
- F. Ocean disposal of dredged material shall be conducted to ensure that U.S. Army Corps of Engineers and Environmental Protection Agency standards are met, and that;
1. The amount of material deposited at a site will not seriously impact local ocean resources; and
 2. Interference with sport and commercial fishing is minimized; and
 3. Disposal is confined to the authorized disposal site; and
 4. The sediment transport of the materials after disposal will not return to the bar or to the estuary.

This determination shall be made by the U.S. Army Corps of Engineers and the Environmental Protection Agency during their review of permit applications for ocean disposal of dredged material.

- G. Disposal of dredged materials on ocean beaches for purposes of beach nourishment shall be conducted to ensure that:
1. The volume and frequency of dredged material disposal is controlled to avoid excessive fluctuations in beach profile. A stable beach profile shall be maintained as nearly as possible; and
 2. Adverse impacts on benthic productivity, and native plants and wildlife within, and downstream of, the disposal site shall be avoided or minimized. Particular care shall be taken to ensure that erosion or smothering of productive habitat areas does not occur; and
 3. The dredged material is uncontaminated and composed predominantly of sand with a particle size compatible with material on the receiving shores.
- H. Land disposal of dredged materials shall be conducted to ensure that the integrity of estuarine waters, streams, underground springs and waterways is maintained. To ensure this:
1. U.S. Army Corps of Engineers guidelines for design of containment areas at dredged material disposal sites shall be followed. The U.S. Army Corps of Engineers shall be responsible for determining that these guidelines have been met.
 2. All surface water runoff from disposed dredged materials shall be controlled and shall enter the water-way or estuary directly through an approved outfall. Outfalls shall be designed so that effluence is routed as directly as practicable to the main channel or deep water for dilution.
 3. When necessary, dikes shall be constructed around land dredged material sites.
 4. Dredged material disposal settling ponds shall be designed to maintain at least one foot of standing water at all times to encourage proper settling of suspended solids. Secondary dredged material disposal settling ponds may be necessary to ensure the proper treatment of overflow water, particularly in area used for disposal of spoils containing toxic materials.
 5. Runoff from disposed dredged materials must pass over an appropriately designed and operated weir. Weir design and size shall be dependent upon the size of the disposal site and the physical and chemical characteristics of the dredged materials.
- I. The final height and slope after each use of a land dredged material site shall be such that:
1. The site does not enlarge itself by sluffing and erosion at the expense of adjacent aquatic areas; and
 2. Loss of material from the site during storms and freshets is minimized; and
 3. Interference with the view from nearby residences, scenic view-points and parks is avoided.

- J, Revegetation of land disposal sites shall occur as soon as is practicable in order to retard water or wind induced erosion and to restore agricultural or wildlife habitat value to the site. Native species or non-native species approved by the Soil Conservation Service shall be used, and reference shall be made to the Inter-Agency seeding Manual prepared by the Soil Conservation Service,
- K, Disposal of dredged material should occur on the smallest practicable land area consistent with the use of the property and the characteristics of the dredged material. Clearing of the land should occur in stages on an as-needed basis. Reuse of existing disposal sites is preferred over creation of new sites in order to minimize the total land area covered by dredged material,
- L, Before dredged materials are disposed of on land areas for use as fill in approved fill projects, a determination shall be made that the structural characteristics of the material are suitable for this use,
- M, The use of agricultural lands for dredged material disposal shall occur only when the sponsor of the dredging project can demonstrate that the soils can be restored to agricultural productivity after disposal use is completed. In cases where this demonstration cannot be made, an exception to the Agricultural Lands Goal must be taken and included as an amendment to the Comprehensive Plan prior to the use of the site for dredged material disposal,
- N, Dredging project proposals shall provide at least a five year program for disposal of dredged material, consistent with the standards listed above. Disposal programs shall provide a mechanism for establishing stockpile sites of fill material suitable for use in approved fill projects.

5. Dredging in Estuarine Water, Intertidal Areas and Tidal Wetlands;

- A, The following standards shall apply only to dredging in excess of 50 cubic yards within a 12 month period, or dredging of 50 cubic yards or less, which requires a Section 10 permit from the U.S. Army Corps of Engineers.
- B, When dredging in estuarine water, intertidal areas or tidal wetlands is proposed, evidence shall be provided by the applicant and findings made by the City that:
 1. The dredging is necessary for navigation or other water dependent uses that require an estuarine location, or is specifically allowed by the management unit or zone; and
 2. A need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
 3. If no feasible alternative upland locations exist; and
 4. If adverse impacts are minimized.
- C, Dredging projects shall meet all requirements of the State Fill and Removal Law (ORS 541.605-541.665), Section 10 of the Rivers and Harbors Act of 1899, and other applicable state and federal laws. These requirements shall be enforced by state and federal agencies with regulatory authority over dredging projects.
- D, Existing water quality, quantity and rate of flow shall be maintained or improved, Minimum stream flow requirements shall be maintained. Water quality policies shall apply.

- E, Flushing capacity of estuaries shall be maintained. A hydrologic report from a professional registered hydrologist or engineer may be required by the Planning Commission to ensure that this standard has been met.
- F, Dredging shall be timed in order to minimize the effects of sedimentation and turbidity and to minimize impacts on fish, shellfish and recreational and commercial fishery activities. The work periods specified in the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources (ODEW, 1976) shall be followed unless approval of alternative work periods has been obtained from ODEW.
- G, Evidence shall be provided by the applicant and findings made by the City that projects requiring dredging are sited and designed so that initial and maintenance dredging are minimized.
- H, Dredging proposals shall provide at least a five year program for disposal of dredged materials. Programs for disposal of dredged material shall be consistent with dredged material disposal standards.
- I, Dredging proposals requiring mitigation shall include a mitigation plan consistent with mitigation standards.
- J, New dredging projects shall not be allowed in areas where insufficient data is available to assess the relative biological value. Under these circumstances, the applicant may arrange to provide the necessary information with the technical assistance of state and federal resource agencies.
- K, When dredging for the purpose of on-site maintenance of existing facilities is proposed, evidence shall be presented by the applicant and findings made by the City that:
- 1, The dredging is necessary to maintain proper operation of the facility; and
 - 2, The amount of dredging proposed is confined to the geographic area of the existing facility, and is the minimum amount necessary to fulfill the need.
- L, Excavation to create new water surface area shall be subject to the standards listed above and to the following standards:
- 1, Provision shall be made for stabilization of new banklines prior to the connection of the new water body to existing water bodies. Excavation of as much as is practical of the new water body shall be completed before it is connected to existing water bodies;
 - 2, Toxic substances or other pollutants shall not leak into the water as a result of the excavation;
 - 3, Erosion of adjacent shoreland areas and excessive sedimentation and turbidity in adjacent aquatic areas shall be avoided;
 - 4, Excavation shall occur at a time that will minimize its impact on aquatic life;
 - 5, Excavated materials shall not be disposed of in estuarine water, intertidal areas or tidal wetlands, except as part of an approved fill project subject to fill standards.

M, Dredging for the purpose of bankline or stream alteration (i.e. realignment of a stream bank or the entire stream either within or without its normal high water boundaries) shall be subject to the standards listed above and to following standards:

1. Alignments should make maximum use of natural or existing deep water channels provided that pockets of stagnant water are not created;
2. Erosion of adjacent shoreland areas and excessive sedimentation and turbidity in adjacent aquatic areas shall be avoided;
3. Temporary stabilization (mulching or sodding), sediment basins or other performance equivalent structures may be required at the discretion of the Planning Commission;
4. Provision shall be made for stabilization of new banklines, shoreline stabilization standards shall apply;
5. Adverse impacts on fish spawning, feeding, migration, and transit routes and wildlife habitats shall be evaluated and minimized.

O, An impact assessment shall be conducted during local, state and federal review of permit applications for dredging in estuarine water, intertidal areas or tidal wetlands. The impact assessment shall follow the procedures outlined in Section 4.120. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.

6. Energy Facilities and Utilities:

- A. When new energy facilities are proposed within estuarine water, intertidal areas of tidal wetlands, evidence shall be provided by the applicant and findings made by the City that:
1. A public need (i.e. a substantial public benefit) exists and the use or alteration does not unreasonably interfere with public trust rights; and
 2. Alternative non-aquatic locations are unavailable or impractical; and
 3. Dredging, fill, and other adverse impacts are avoided or minimized.
- B. Electrical or communication transmission lines shall be located underground or along existing rights-of-way unless economically unfeasible.
- C. Above-ground utilities shall be located to have the least adverse effect on visual and other aesthetic characteristics of the area. Interference with public use and public access to the estuary shall be minimized.
- D. Whenever practicable, new utility lines and crossings within estuarine water, intertidal areas or tidal wetlands shall follow the same corridors as existing lines and crossings.
- E. Water discharge into estuarine waters, intertidal areas and tidal wetlands from an energy facility or utility shall meet EPA and DEQ standards, and shall not produce increases in temperature in the receiving waters which would have adverse impacts on aquatic life. Water quality policies shall apply.
- F. When new energy facilities and utilities are proposed in EN zones, evidence shall be provided by the applicant and findings made by the City that the proposed use is consistent with the resource capabilities of the area and the preservation of areas needed for scientific, research or educational needs.
- G. When storm water and sewer outfalls are proposed in EC2 and EC1 zones, evidence shall be provided by the applicant and findings made by the City

that the proposed use is consistent with the resource capabilities of the area and the use will not preclude the provision or maintenance of navigation and other public, commercial, and industrial water-dependent uses.

- H. When new energy facilities and utilities are proposed in Estuary Development (ED) zones, evidence shall be provided by the applicant and findings made by the City that the proposed facility will not preclude the provision or maintenance of navigation and other public, commercial and industrial water-dependent uses,
- I. Storm water and sewer outfalls shall go out to channels or areas where flushing will be adequate and shall not empty onto tideflats or intertidal wetlands, Effluent from outfalls must meet DEQ and EPA water quality standards, Water quality policies shall apply.
- J. Dredge, fill, shoreline stabilization or other activities in conjunction with construction of energy facilities or utilities shall be subject to the respective standards for these activities.
- K. Energy facilities and utilities shall be sited so that they do not and will not require structural shoreline stabilization methods,

7. Fill in Estuarine Waters, Intertidal Areas and Tidal Wetlands:

- A. The following standards shall apply only to fill in excess of 50 cubic yards or fill of less than 50 cubic yards which requires a Section 10 or 404 permit from the U.S. Army Corps of Engineers.
- B. When fill in estuarine water, intertidal areas or tidal wetlands is proposed, evidence shall be provided by the applicant and findings made by the city that:
 1. The fill is necessary for navigation or other water-dependent uses that require an estuarine location, or is specifically allowed by the management unit or zone; and
 2. A need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
 3. If no feasible alternative upland locations exist; and
 4. If adverse impacts are minimized.
- C. When fill for the purpose of on-site maintenance of existing facilities is proposed, evidence shall be provided by the applicant and findings made by the city that:
 1. There are no alternatives to fill to maintain proper operation of the facility; and
 2. The amount of fill proposed is confined to the geographic area of the existing facility, and is the minimum amount necessary to fulfill the need,
- D. Where existing public access is reduced, suitable access as part of the development project shall be provided.
- E. The fill shall be placed at a time that will minimize sedimentation and turbidity, The work periods specified in the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources (ODFW 1976) shall be followed unless approval of alternative work periods has been obtained from the ODFW.
- F. Only non-polluted materials may be used for fill. Materials which would create water quality problems are not permitted.

- G, The perimeters of the fill shall be provided with erosion prevention measures, consistent with shoreline stabilization standards.
- H, Fills shall be placed so that adjacent or nearby property is not adversely impacted by increased erosion, shoaling and flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer or hydrologist may be required by the Planning Commission as a result of the impact assessment required in Section 3.120.
- I, Fill proposals requiring mitigation shall include a mitigation plan consistent with mitigation standards.
- J, Fill in estuarine waters, intertidal areas and tidal wetlands shall be subject to the requirements of the State Fill and Removal Law (ORS 541,605-541,665), the Rivers and Harbors Act of 1899, the Clean Water Act of 1977 (PL 95-217), and other applicable state and federal agencies with regulatory over fill projects.
- K, An impact assessment shall be conducted during the local, state, and federal review of permit applications for fill in estuarine waters, intertidal areas or tidal wetlands according to the provision outlined in Section 4.120. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.

B, **Forestry and the Forest Products Industry:**

- A, Log storage, sorting and processing areas in shorelands adjacent to estuaries or waterways shall be designed, constructed and operated to control leakages and prevent the loss of bark, chips, sawdust and other wood debris into public waters.
- B, In-water log handling, sorting, and storage areas, and log storage, sorting and processing areas in shorelands adjacent to estuaries or other water bodies shall be subject to the requirements of the water quality program administered by the Department of Environmental Quality under the Clean Water Act of 1977 (PL 92-500). DEQ, in conjunction with other affected resource agencies, shall be responsible for determining that the flushing characteristics of in-water log handling, sorting and storage areas, the number of logs and duration of storage, and the bark and debris controls for both in-water and shoreland sites are such that state and federal clean water standards are met.
- C, Leasing of publicly owned aquatic areas for the purpose of in-water log handling, sorting and storage shall be subject to the requirements of the Division of State Lands.
- D, When new in-water log handling, sorting and storage areas are proposed in estuarine waters, evidence must be presented by the applicant and findings made by the City that:
1. The proposed use is an integral part of the process of waterborne transportation of logs (i.e., is water dependent);
 2. There is a public need (i.e. a substantial public benefit) for the proposed use; and the use or alteration does not unreasonably interfere with public trust rights.
 3. Alternative non-aquatic locations are unavailable, impracticable or do not meet the need;
 4. Conflicts with navigation, aquaculture and commercial and recreational fishing have been avoided or minimized;

5. Easy let-down facilities for transfer of logs from land to water have been provided for (free fall log dumps shall not be permitted); and
6. Sites are located to avoid shellfish beds, shallow spawning areas, or areas where grounding of logs will occur.

9. Industrial and Commercial Uses in Estuarine Waters, Intertidal Areas and Tidal Wetlands;

- A. Evidence shall be provided by the applicant and findings made by the City that:
1. The amount of estuarine surface area occupied is the minimum required to meet the need; and
 2. Provision has been made for public access, viewpoints and recreational use, consistent with safety and security considerations; and
 3. Multipurpose and cooperative use of piers, wharfs, parking areas or handling and storage facilities have been provided for, or is impracticable; and
 4. Floating structures are designed so as not to rest on the bottom at low water, and are protected against currents and waves; and
 5. Alteration of productive intertidal areas and tidal marshes has been avoided or minimized; and
 6. Adverse impacts on the following have been avoided or minimized to be consistent with the resource capabilities and purposes of the area;
 - a. Water quality;
 - b. Hydrographic characteristics;
 - c. Aquatic life and habitat;
 - d. Bird and wildlife habitat;
 - e. Fish transit and migration routes.
- B. Removal of riparian vegetation shall be permitted only if direct access to water is required in conjunction with a water-dependent use. Replacement of riparian vegetation, or enhancement of existing riparian vegetation shall be required, where consistent with water-dependent use, to enhance attractiveness or assist in bank stabilization.
- C. Visual access to the water shall not be impaired by the placement of signs. When feasible, signs shall be constructed on or against existing buildings to minimize visual obstruction of the shoreline and water bodies. Off-premise outdoor advertising signs shall not be allowed within estuarine waters, intertidal areas or tidal wetlands.
- D. The design and construction of new industrial and commercial facilities should consider reclamation and re-use of waste water.
- E. Provision for the prevention and control of contaminants from entering the water shall be made. A contingency plan to provide for containment of cleanup of spills of contaminants shall be provided.
- F. Industrial outfalls, sewer outfalls, and storm water outfalls shall go out to channels or areas where flushing will be adequate and shall not empty onto tideflats or salt marshes. Effluent from outfalls must meet DEQ and EPA water quality standards. Water quality policies shall apply.

- G. When water-dependent industrial and commercial uses are proposed in Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the City that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
- H. When water-related or non-dependent, non-related industrial or commercial uses are proposed in Estuary Development (ED) zones, evidence must be presented that;
1. The use will not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses; and
 2. The use will not preempt the use of shorelands especially suited for water-dependent development; and
 3. Non-water dependent and non-water related uses which permanently alter estuarine resources and values shall include evidence of the public benefits derived from the project, which shall include:
 - a. The beneficial economic impacts generated by increases in employment; and/or
 - b. Indirect economic impacts generated by increases in commercial, industrial or recreational activity within the area.
- I. All state and federal laws governing the use, handling, storage, treatment and disposal of toxic materials, petroleum, waste water and organic wastes, and other state and federal laws governing environmental quality, resource protection or public health and safety shall be met. This determination shall be made by appropriate state or federal agencies with regulatory authority.
- J. Dredging, fill, piling/dolphin installation, shoreline stabilization, disposal of dredged material or other activities in conjunction with industrial and commercial uses shall be subject to the respective standards for these activities,

10. Land Transportation Facilities:

- A. Proposals for new county or state highways, or for railroads, shall provide an evaluation of the proposed project on the following:
1. Land use patterns;
 2. Energy use;
 3. Air and water quality;
 4. Estuarine habitat, functions and processes;
 5. Existing transportation facilities;
 6. Physical and visual access to estuaries and shorelands.
- B. Evidence shall be provided by the applicant and findings made by the City that the siting, design, construction and maintenance of land transportation facilities will be conducted to avoid mass soil wasting or excessive surface erosion.

- G. Land transportation facility proposals shall include a rehabilitation plan specifying the method and timing of necessary site rehabilitation, Site rehabilitation plans shall provide for replacement of riparian vegetation,
- D. Vegetated buffer strips shall be maintained, whenever practicable, along roadways to manage storm drainage runoff.
- E. When culverts are used in association with bridge crossings, spring line natural bottom culverts are preferred over box culverts.
- F. All bridge crossings and culverts shall be positioned and maintained to allow fish passage, avoid interference with anadromous fish runs and to prevent any constriction of natural streams which would result in increases in flood or erosion potential. When culverts are used, no fill shall be allowed in streams, rivers or estuaries.
- G. When new bridge crossing support structures are proposed in Estuary Natural (EN) zones, evidence shall be provided by the applicant and findings made by the City that the proposed use is consistent with the resource capabilities and purposes of the area.
- H. When new land transportation facilities are proposed in Estuary Development (ED) zones, evidence shall be presented by the applicant and findings made by the City that the proposed use is consistent with the resource capabilities of the area and that the use will not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
- I. Dredging, fill, piling/dolphin installation, shoreline stabilization, dredged material disposal or other activities in conjunction with land transportation facilities shall be subject to the respective standards for these activities.

11. Mining and Mineral Extraction:

- A. Mining and Mineral Extraction policy requirements in the Garibaldi Comprehensive Plan shall be met.
- B. Mining and mineral extraction proposals shall include a mining plan and a rehabilitation plan specifying the method and timing of necessary site rehabilitation. Any necessary rehabilitation of mining and/or mineral extraction sites shall be completed within two years of the completion of the mining or mineral extraction operation.
- C. Evidence shall be provided by the applicant and findings made by City that mining and mineral extraction projects are sited, designed, operated and maintained to ensure that adverse impacts on the following are minimized:
 1. Aquatic life and habitat, including but not limited to the spawning, rearing and passage requirements of anadromous fish;
 2. Bird and wildlife habitat;
 3. Hydrographic characteristics, including but not limited to the alteration of local currents that may affect adjacent properties by causing erosion, accretion or increased flooding.
 4. Water Quality policies shall apply.

- D, Temporary removal of riparian vegetation shall be permitted in cases where direct water access is required as part of a mining or mineral extraction operation, site rehabilitation plans shall provide for replacement of riparian vegetation,
- E, Spoils and stockpiles shall not be placed within estuarine water, intertidal areas or tidal wetlands, unless as part of an approved fill project, subject to fill standards.
- F, When mining and mineral extraction projects are proposed in Estuary Conservation 1 (EC1) and Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the City that the proposed project is consistent with the resource capabilities of the area and the long term use of renewable resources, and does not cause a major alteration of the estuary,
- G, When mining and mineral extraction projects are proposed in Estuary Development (ED) zones, evidence shall be presented by the applicant and findings made by the City that the project is consistent with the maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
- H, Dredging, fill or other activities in conjunction with mining and mineral extraction shall be subject to the respective standards for these activities,
- I, The location and operation of mining and mineral extraction projects shall be in conformance with the requirements of the Division of State Lands (ORS 541.605-541.665; ORS 273.551; ORS 273.775-273.780), the Department of Geology and Mineral Industries (ORS 520.005-520.095) and other applicable state and federal laws governing environmental quality, resource protection and public health and safety. These requirements shall be enforced by state and federal agencies with regulatory authority over mining and mineral extraction projects.

12, Mitigation:

- A, Mitigation policy requirements in the Garibaldi Comprehensive Plan shall be met,
- B, Mitigation for dredge or fill within estuarine waters of intertidal wetlands shall be required by the Director of the Division of State Lands (under the provisions of ORS 541.605-541.665). The suitability of a mitigation proposal for a given proposed project shall be determined by the Director of the Division of State Lands, according to the procedure established in Administrative Rule 85-245 (Chapter 141).
- C, Mitigation projects shall go into effect prior to or at the same time as the development project.

13. Navigational Structures and Navigational Aids

- A, When navigational structures are proposed, evidence shall be provided by the applicant and findings made by the City that:
1. The amount of estuarine surface area occupied is the minimum necessary to accomplish the proposed use; and
 2. The project will not interfere with the normal public use of fishery, recreation or water resources; and
 3. The proposed project will not adversely impact adjacent or nearby property through increased erosion, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer or hydrologist may be required,

4. Non-structural solutions are unavailable, impractical or do not meet the need.

B. When floating breakwaters are proposed in Estuary Conservation 1 (EC1) and Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the City that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.

C. Navigational structures shall meet all applicable U.S. Army Corps of Engineers engineering standards. The U.S. Army Corps of Engineers shall be responsible for determining that these engineering standards have been met.

D. An impact assessment shall be conducted during local, state and federal review of permit applications for navigational structures. The impact assessment shall follow the procedures outlined in Section 4.120. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purpose of the area.

E. Dredging, fill or other activities in conjunction with navigational structures and navigational aids shall be subject to the respective standards for these activities.

14. Piling/Dolphin Installation:

A. When piling or dolphin installation is proposed, evidence shall be provided by the applicant and findings made by the City that:

1. The amount of estuarine surface area occupied is the minimum necessary to accomplish the proposed use;
2. The project will not unduly interfere with the normal public use of fishery, recreational or water resource; and
3. The proposed project will not adversely impact adjacent or nearby property through increased erosion, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer or hydrologist may be required by the Planning Commission as a result of the impact assessment required in Section 4.120.

B. When new piling or dolphin installation is proposed in Estuary Natural (EN), Estuary Conservation 2 (EC2) or Estuary Conservation 1 (EC1) zones, evidence shall be provided by the applicant and findings made by the City that the project is consistent with the resource capabilities and purposes of the area.

C. When proposals for new piling or dolphin installation in conjunction with a non-water-dependent or non-water-related use within Estuary Development (ED) zones are made, evidence shall be presented by the applicant and findings made by the City that the project is consistent with the maintenance of navigation and needed public, commercial and industrial water-dependent uses.

D. Piling/dolphin replacement and new installation shall meet all applicable U.S. Army Corps of Engineers engineering standards and permit

requirements. The U.S. Army Corps of Engineers shall be responsible for determining that these engineering standards and permit requirements have been met.

- E, An impact assessment shall be conducted during local, state and federal review of permit applications for piling/dolphin installation. The impact assessment shall follow the procedures outlined in Section 4.120. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.

15, Restoration:

- A, Restoration policy requirements in the Garibaldi Comprehensive Plan shall be met,
B, Proposals for restoration projects shall present evidence that:
1. The restored area is a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed; and
 2. The restored area may not have been a functioning part of the estuarine system when alteration work begins; and
 3. The restored area is revitalizing, returning or replacing original attributes and amenities which have been diminished or lost by past alterations, activities, or catastrophic events.
- C, All Estuarine enhancement project proposals shall identify:
1. The original conditions to be restored;
 2. The cause of the loss or degradation; and
 3. The location and extent of actions necessary to achieve the restoration objective.
- D, When active restoration or estuarine enhancement projects are proposed in Estuary Natural (EN) zones, evidence shall be provided by the applicant and findings made by the City that the project is consistent with the resource capabilities of the area and with the protection of significant fish and wildlife habitats, biological productivity, and of scientific, research and educational needs.
- E, When active restoration or estuarine enhancement projects are proposed in Estuary Conservation 1 (EC1) or Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the City that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary,
- F, When passive or active restoration or enhancement projects are proposed in Estuary Development (ED) zones, evidence shall be provided by the applicant and findings made by the City that the project will not interfere with the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses, or with the use of adjacent shorelands especially suited for water-dependent development.
- G, When active restoration projects are proposed in the WD1 zone, evidence shall be provided by the applicant and findings made by the City that the proposed project does not preclude or conflict with existing or reasonable potential water-dependent use on the site or in the vicinity. Shoreland development standards shall apply,

H. Dredge, fill, shoreline stabilization, shoreland development, installation of energy facilities or utilities, dredged material disposal and other uses and activities proposed as part of an active restoration project shall be subject to the respective standards for these uses and activities.

I. Estuarine enhancement project proposals shall present evidence that the project will result in an overall improvement in the cultural, historic, economic or navigation features of an estuary, which will outweigh any adverse impacts,

16. Shallow Draft Port Facilities and Marinas:

A. Evidence shall be provided by the applicant and findings made by the City that:

1. Facilities have been sited and designed to minimize initial and maintenance dredging;
2. Dryland boat storage has been provided for, or is impracticable;
3. Provision has been made for public access, viewpoints and recreation use, consistent with safety and security consideration;
4. Multipurpose and cooperative use of piers, wharfs, parking areas and cargo handling and storage has been provided for, or is impracticable;
5. Floating structures are designed so as not to rest on the bottom at low water, and are protected against currents and waves;
6. The amount of water surface occupied is the minimum required to meet the need;
7. Provision has been made for maintenance of riparian vegetation, except where direct access to water is required;
8. Natural or man-made protection from wind, waves, storm or tidal currents or ship wakes has been provided for;
9. Adverse impacts on the following have been avoided or minimized:
 - a. Navigation;
 - b. Water quality;
 - c. Hydrographic characteristics;
 - d. Natural processes of erosion and sedimentation;
 - e. Aquatic life and habitat.

In EC2 zones, a resource capability determination is also required.

- B. Marina access channels shall be designed to maximize water circulation and avoid dead spots. Dead-end channels or confined basins should be avoided. A demonstration shall be made that state and federal clean water standards can be maintained. A field study of water circulation patterns may be required by the Planning Commission as a result of the impact assessment required in Section 4,120.
- C. Safe navigational access to port facilities and marina shall be provided and maintained.
- D. Covered or enclosed moorages shall be limited to 10% (in number) of the total moorage spaces of a given port facility or marina.
- E. The following provisions for the prevention and control of contaminants from entering the water shall be made:

1. Enclosed shoreland facilities for public dumping of oil and emptying of holding tanks shall be provided;
2. A contingency plan to provide for contaminant and clean-up of spills of contaminants shall be provided.

F. Proposals for expansion or creation of port and marina facilities shall be accompanied by a demonstration of the public benefits derived from the project, which shall include:

1. Information on why the capacity of existing facilities is inadequate, and
2. The beneficial economic impacts to local communities derived from increases in employment; and/or
3. Indirect economic impacts generated by increases in commercial, industrial or recreational activity within the area.

G. All state and federal laws governing the use, handling, storage, treatment and disposal of toxic materials, petroleum, waste water and organic wastes, and other state and federal laws governing environmental quality, resource protection or public health and safety shall be met. This determination shall be made by appropriate state or federal agencies with regulatory authority.

H. When marina expansion or development is proposed in Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the City that the project is consistent with the resource capabilities of the area and the long-term use of renewable resource and does not cause a major alteration of the estuary.

I. Dredge, fill, piling/dolphin installation, navigational structures, shoreline stabilization or other activities in conjunction with expansion or creation of new port facilities and marinas shall be subject to the respective standards for these activities.

17. Shoreline Stabilization:

A. Within estuarine waters, intertidal areas and tidal wetlands, and along shoreland areas, general priorities for shoreline stabilization for erosion control are, from highest to lowest:

1. Proper maintenance of existing riparian vegetation;
2. Planting of riparian vegetation;
3. Vegetated rip-rap;
4. Groins, bulkheads or other structural methods.

B. Vegetative shoreline stabilization shall utilize native species, or non-native species approved by the Soil Conservation Service. Reference shall be made to the Inter-Agency Seeding manual prepared by the Soil Conservation Service.

C. When structural shoreline stabilization methods are proposed, evidence shall be presented the applicant and findings made by the City that:

1. Flooding or erosion is threatening an established use on a subject property, or
2. There is a demonstrated public need in conjunction with navigation or a water-dependent use; and

3. Land use management practices or non-structural solutions are inappropriate or will not meet the need; and
4. The proposed structural stabilization method is the minimum size needed to accomplish the desired stabilization;
5. The proposed project will not restrict existing public access to publicly owned lands or interfere with the normal public use of fishery, recreation or water resources; and
6. The proposed project will not adversely impact adjacent aquatic areas or nearby property through increased erosion, sedimentation, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer, hydrologist, or geologist may be required by the Planning Commission as a result of the impact assessment required in Section 4.120,

A brief statement from the local Soil and Water Conservation Service may serve as evidence that standards C3 and C4 have been met.

- D. Shoreline stabilization projects shall be timed to minimize impacts on aquatic life.
- E. Proposals for rip-rap shall include evidence that the rock to be used will be effective, and will provide justification for use of a slope steeper than 1 1/2 feet horizontal to one foot vertical.
- F. When bulkheads are proposed, evidence shall be provided by the applicant and findings made by the City that other forms of structural stabilization are inappropriate or will not meet the need. Bulkheads should be designed to be permeable to groundwater and runoff. Fill policies and standards shall apply to bulkhead projects which involve fill within estuarine waters, intertidal areas or tidal wetlands.
- G. When rip-rap is proposed in Estuary Natural (EN) zones, evidence shall be presented by the applicant and findings made by the City that the project is consistent with the resource capabilities of the area and the protection of significant fish and wildlife habitats and other areas which make an essential contribution to estuarine productivity or fulfill scientific, research, and educational needs.
- H. When structural shoreline stabilization is proposed in Estuary Conservation 1 (EC1) and Estuary Conservation 2 (EC2) zones, evidence shall be presented by the applicant and findings made by the City that the project is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
- I. When structural shoreline stabilization is proposed in Estuary Development (ED) zones, evidence shall be presented by the applicant and findings made by the City that the project is consistent with the resource capabilities of the area and the maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
- J. An impact assessment shall be conducted during local, state and federal review of permit applications for structural shoreline stabilization seaward of the line of non-aquatic vegetation or the mean higher high water line. The impact assessment shall follow the procedure outlined in Section 4.120. Identified adverse impacts shall be avoided or minimized to be consistent with the resource capabilities and purposes of the area.

Section 4.120. Review of Regulated Activities.

1. **Purpose:** The purpose of this section is to provide an assessment process and criteria for local review and comment on state and federal permit applications which could potentially alter the estuarine ecosystem.
2. **Regulated Activities:** Regulated activities are those actions which require state and/or federal permits, and include the following:
 - A. Fill (either fill in excess of 50 cubic yards, or fill of less than 50 cubic yards which requires a Section 10 or Section 404 permit from the U.S. Army Corps of Engineers);
 - B. Dredging (either dredging in excess of 50 cubic yards within a 12 month period, or dredging of less than 50 cubic yards which requires a Section 10 permit from the U.S. Army Corps of Engineers);
 - C. Dredged material disposal;
 - D. Piling/dolphin installation;
 - E. Shoreline stabilization, bankline or streamline alteration involving fill or dredging in excess of 50 cubic yards;
 - F. In-water log storage.
3. **Procedure for Reviewing Regulated Activities:** The Planning Commission shall review state and federal permit notices. Regulated activities and any associated use or uses as a whole shall be reviewed based on requirements of the zone(s) in which the proposed uses and activities are to be located (Section 3.080 to 3.110), standards relevant to the proposed uses and activities (Section 4.110), an impact assessment (Section 4.120 (5)), resource capability and purpose determinations where applicable (Section 4.120 (6)), requirements for degradations or reductions of estuarine natural values where applicable (Section 4.120 (7)) and comments from State and Federal agencies having responsibility for permit review (4.120 (8)). Based on this review, the Planning Commission will decide whether the proposed uses and activities comply with this ordinance and will forward its decision to the appropriate permitting agencies and the permit applicant prior to the final date set for comments. Decisions of the Planning Commission may be appealed (Section 11.050).
4. **Zone Requirements:** Uses and activities shall be allowed only if they are allowed in the zones in which they are to be located. Accessory uses proposed for adjacent upland areas must be allowed in the upland zones in which they are to be located. Uses that are permitted with standards must comply with the standards of Section 4.110. Uses listed as conditional uses shall be reviewed according to the procedures of Article 6 and the standards of Section 4.110. If a conditional use review is required, the City shall notify the applicant and state and federal permitting agencies and shall request an extension of the comment period.
5. **Impact Assessments:** The City shall, with the assistance of affected state and federal agencies, develop impact assessments for regulated activities. Federal Environmental Impact Statements or Assessments may be substituted if made available to the Planning Commission. The following considerations must be addressed in the impact assessment,
 - A. The type and extent of alterations expected.

- B. The type of resource(s) affected including, but not limited to aquatic life and habitats, riparian vegetation, water quality and hydraulic characteristics.
 - C. The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary.
 - D. The methods which could be employed to avoid or minimize adverse impacts.
6. Requirements for Resource Capability Determinations: Uses and activities for which a resource capability determination is required by Section 4.110, shall be allowed only if they are found to be consistent with the resource capabilities of the management unit(s) and the purposes of the zone(s) in which they are to be located. An activity will be found to be consistent with the resource capability of the Estuary Natural Zone (as described in Section 2 of the Estuarine Resources Element of the Tillamook County Comprehensive Plan) when either (1) the impacts of the use on estuarine species, habitats biological productivity and water quality are not significant or; (2) that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner consistent with the purposes of the zone. The resource capability determination shall be based on information generated by the impact assessment.

An activity will be found to be consistent with the resource capability of Estuary Conservation 1 and Estuary Conservation 2 zones when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant, or that the resources of the area are able to assimilate the use and activity and their effect and continue to function in a manner which conserves long-term renewable resources, natural biological productivity, recreational and aesthetic values and aquaculture.

7. Significant Degradations or Reductions of Estuarine Natural Values:
- A. Definition: Significant degradations or reductions of estuarine natural values include dredging, fill, and other activities which will cause significant offsite impacts as determined by the impact assessment.
 - B. Requirements: Dredging and fill must comply with the standards in Section 4.110. Other reductions and degradations of estuarine natural values shall be allowed only if:
 - 1. A need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
 - 2. No feasible alternative upland locations exist; and
 - 3. Adverse impacts are minimized as much as feasible.
8. State and Federal Reviewing Agency Comments: Where the review of regulated activities involves a resource capability and purpose determination or an impact assessment or a request for a single-purpose dock or pier the City shall notify the following agencies:

Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U.S. Army Corps of Engineers. Notice will be

mailed within 7 days of City receipt of the state or federal permit notice. The notice will include permit reference, identification of the local decisions to be made, references to applicable policies and standards, and notification of comment and appeal periods. The City shall consider any comments received no later than seven days before the closing date for comments on the state and federal permit notice.

9. Appeals: Planning Commission decisions on regulated activities may be appealed according to the requirements of Section 11.050. Planning Commission decisions on regulated activities that involve a conditional use may be appealed according to the requirements of Section 11.050. If the decision of the Planning Commission is appealed, the City shall notify the appropriate state and federal permitting agencies and shall request an extension to the comment period to allow for the local appeals process.

Section 4.130 Riparian Vegetation. Riparian vegetation adjacent to Tillamook Bay and the streams in Garibaldi shall be protected in accordance with the following provisions:

1. The following areas of riparian vegetation are defined:
 - A. Fifteen feet on either side of Cannery Creek, Johnson Creek, School Creek, Whitney Brook, Hill Creek, Hobson Creek, Lagler Creek.
 - B. Twenty five feet adjacent to Tillamook Bay in those areas described in the Comprehensive Plan Background Report (p.11) where riparian vegetation has been identified.

The distance is measured from the bank of a stream and from the mean higher high water line adjacent Tillamook Bay.

2. All structures and uses shall be located outside of areas listed in (1) above with the following exceptions:
 - A. Where direct water access is required in conjunction with a water- dependent use; or
 - B. Access to a lot where the proposed access is the only reasonable alternative; or
 - C. Structural shoreline stabilization; or
 - D. Trails or other pedestrian walkway that provide access to the water.
3. For areas described in 1 A & B above all trees, 6 inches in diameter four and one-half feet above grade, and 50% of the understory vegetation shall be retained within the areas listed with the following exceptions:
 - A. Removal of dead, diseased or dying trees, or trees that pose an erosion hazard,
 - B. Removal of vegetation necessary to provide for uses listed in (2) above.

- C. Vegetation removal in conjunction with an approved in-water project,
 - D. The removal of noxious weeds as defined by the City's nuisance ordinance,
 - E. Removal of vegetation necessary to ensure that the stream continues to serve its drainage functions.
4. The City may approve the removal of riparian vegetation not covered by provisions 4,130(3) where a proposed plan of vegetation removal has been reviewed by the Planning Commission and found to be in conformance with the overall objective of maintaining the functional characteristics of riparian vegetation.

Section 4.140 Maintenance of Access. The City shall review under ORS 271,080- 271,230, proposals for the vacation of public easements or rights-of-way which provide access to or along Tillamook Bay. The City shall review under the provision of ORS 271.300-271,360, proposals for the sale, exchange or transfer of public ownership which provides access to Tillamook Bay. Existing public ownership rights-of-way and similar public easements which provide access to or along Tillamook Bay shall be retained or replaced if they are sold, exchanged or transferred. Rights-or-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

ARTICLE 5. EXCEPTIONS

Section 5.010 Zone Boundaries. If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary.

Section 5.020 Authorization of Similar Uses. The Planning Commission may permit in a particular zone a use not listed in this ordinance, provided the use is of the same general type as the uses permitted there by this ordinance.

[Section 5.030 DELETED BY ORDINANCE NO. 209]

Section 5.040 Projections From Buildings. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 24 inches into a required yard except that unsupported eaves may extend up to one half the distance of a required setback.

Section 5.050 General Exception to Lot Size Requirements. If a lot or the aggregate of contiguous lots held in a single ownership as recorded in the office of the County Clerk at the time of the passage of this ordinance has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to a single family dwelling or to the number of dwelling units consistent with the density requirements of the zone.

Section 5.060 General Exceptions to Yard Requirements.

1. The following exceptions to the front yard requirements for a dwelling are authorized for a lot in any zone.

- A. The required front yard for a dwelling need not exceed the average depth of the nearest front yards of dwellings within 100 feet on both sides of the proposed dwelling on the same side of the street.
- B. The setback of a building from the bay shore shall be the average of the setbacks of the structures on either side up to a distance of 200 feet, but in no case beyond the surveyed property line. If no structures are within this distance, the setback shall conform to the general oceanfront building line as described in the Comprehensive Plan.

[Section 5.060 (2) Deleted by Ordinance No. 209]

Section 5.070 General Exception to Building Height Limitations. Projections such as chimneys, aerials, flagpoles, and other similar objects not used for human occupancy, no more than 48 inches in width, are not subject to the building height limitations of this ordinance,

ARTICLE 6. CONDITIONAL USES

Section 6.010 Authorization to Grant or Deny Conditional Uses. Conditional uses listed in this ordinance may be permitted, enlarged or otherwise altered upon authorization by the Planning Commission in accordance with the standards and procedures set forth in Section 6,010 through 6,030.

In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements dealing with conditional uses,

In permitting a conditional use or the modification of a conditional use other than a housing type, (multi-family, manufactured home park) the Planning Commission may impose in addition to those standards and requirements expressly specified for that use, other conditions which are necessary to protect adjacent property, an identified resource, or the City as a whole,

Section 6.020 Conditional Use Review Criteria. Before a conditional use is approved findings will be made that the use will comply with the following standards;

1. The proposed use is consistent with the policies of the Comprehensive Plan,
2. The location, size, design and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties.
3. The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated.
4. Public facilities and services are adequate to accommodate the proposed use.
5. The site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use.
6. The site has adequate area to accommodate the proposed use. The site layout has been designed to provide appropriate access points, on-site drives, parking areas, loading areas, storage facilities, setbacks, buffers, utilities or other facilities which are required by City ordinances or desired by the applicant.

Section 6.030 Conditional Use Procedure. The following procedures shall be observed in applying for and acting on a conditional use:

1. A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the City using a form prescribed pursuant to Section 11.010. The Planning Commission may require other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties.
2. The procedure is as follows:
 - A. Public notice shall be given in accordance with Section 11.020,
 - B. A public hearing shall be held in accordance with Section 11.040,
 - C. A decision on the conditional use application shall be made in accordance with Section 11.040(6).
 - D. A decision of the Planning Commission may be appealed to the City Council in accordance with Section 11.050.
 - E. The applicant shall attach a copy of the decision of the Planning Commission to the building permit application.
 - F. The conditional use permit shall be null and void after one year unless substantial construction has taken place or unless the Planning Commission grants a six month extension upon a finding that circumstances have not changed since the original approval. Only on six month extension shall be granted.

Section 6.040 Specific Conditional Use Standards.

1. Non-water dependent uses in shorelands or waterfront zones, Non-water dependent uses shall be permitted only where the finding is made that such uses will not preclude the allocation of water dependent uses, that sufficient land and water area exists for water dependent uses, that public access and riparian vegetation (where applicable) will be maintained or provided, and that such uses will not cause the filling of the estuary or other adverse water quality impact.

ARTICLE 7. NON-CONFORMING USES

Section 7.010 Continuation of Non-conforming Use. Subject to the provisions of ORS 215,130 and subsequent provisions of this article a nonconforming use or structure may be continued or structurally altered. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance, is not considered an enlargement or expansion of a nonconforming use,

Section 7.020 Discontinuance of Nonconforming Use.

1. If a nonconforming use involving a structure is discontinued for a period of one year, further use of the property shall conform to this ordinance.
2. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall conform to this ordinance.

Section 7.030 Change of Nonconforming Use.

1. If a nonconforming use not involving a structure is replaced by another use, the new use shall conform to this ordinance.
2. If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this ordinance unless the Planning Commission determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced.

Section 7.040 Destruction of Nonconforming Use or Structure. If a nonconforming structure or structure containing a nonconforming use suffers damage or is destroyed by any cause and is not returned to use or repaired within one year, a future structure or use on the site shall conform to this ordinance

Section 7.050 Completion of Structure.

Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, provided the building, in nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the building permit is issued.

Section 7.060 Alterations Necessary to Comply with Other Laws. Alterations of nonconforming uses may be allowed when the Planning Commission determines that alterations are necessary to comply with other City, state or federal requirements.

Section 7.070 Enlargement or Expansion of a Non-conforming Use. The Planning Commission, pursuant to the procedures of Article 6 Conditional Uses, may authorize the enlargement or expansion of a non-conforming use up to 20% of the existing building's floor area or 10% of the existing site area, which ever is greater.

ARTICLE 8. VARIANCES

Section 8.010 Purpose.

1. The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the size, shape, or dimensions of a site, or the location of existing structures thereon; from geographic, topographic or other physical conditions on the site or in the immediate vicinity or from population densities, street location, or traffic conditions in the immediate vicinity.
2. The power to grant variances does not extend to use regulations. In other words, no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

Section 8.020 Criteria

1. Variances to a requirement of this chapter with respect to lot area and dimensions, setbacks, yard area, lot coverage, height or structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, four expressly written findings are made:
 - A. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the Comprehensive Plan; or
 - B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; or
 - C. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.

- D, That the granting of the variance would support policies contained within the Comprehensive Plan.

Variances in accordance with this section should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner,

- 2, Variances to requirements of this chapter with respect to off-street parking and loading facilities may be authorized as applied for or as modified, If, on the basis of the application, investigation, and the evidence submitted, the following express written findings are made:
- A. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this chapter,
 - B. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets.
 - C. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this chapter,

Where a variance request is being reviewed under Section 8.020(2); only the criteria of Section 8.020(2) shall be addressed. The criteria of Section 8.020(1) are not applicable.

Section 8.030 Conditions. Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are complied with,

Section 8.040 Variance Procedures. The following procedures shall be observed in applying for an acting on a request for a variance.

- 1, A property owner may initiate a request for a variance by filing an application with the City pursuant to Section 11.010.
- 2, Notice of a public hearing on the variance request shall be provided pursuant to Section 11.020.
- 3, A public hearing shall be held on the variance request pursuant to Section 11.040,
- 4, A decision shall be made on the variance request pursuant to Section 11.040(6),
- 5, A decision on a variance request may be appealed to the City Council pursuant to Section 11.050.

Section 8.080 Compliance with Conditions of Approval. Compliance with conditions imposed in the variance, and adherence to the submitted plans as approved is required. Any departure from these conditions of approved plans constitutes a violation of this chapter,

Section 8.090 Vested Interest In Approved Variances. A valid variance supersedes conflicting provisions of subsequent rezonings or amendments to this chapter unless specifically provided otherwise by the provisions of this section or in the conditions of approval to the variance,

Section 8.100 Revocation. Variances shall automatically be revoked if not exercised within one year of the date approval.

Section 8.110 Limitation on Refilling of Application. Applications for which a substantially similar application has been denied shall be heard by the Planning Commission only after a period of six months has elapsed.

ARTICLE 9. AMENDMENTS

Section 9.010 Authorization to Initiate Amendments. An amendment to the text of this ordinance or to a zoning map may be initiated by the City Council, Planning Commission, or by application of a property owner.

Section 9.020 Amendment Procedure. The following procedures shall be observed in consideration of an amendment request:

1. A request shall be initiated by filing an application with the City pursuant to Section 11.010.
2. Notice of a public hearing shall be given pursuant to Section 11.020.
3. The Planning Commission shall hold a public hearing on the request pursuant to Section 11.040.
4. The Planning Commission will forward its recommendation to the City Council and the City Council will hold a public hearing pursuant to Section 11.040.
5. The City Council will make a decision on the request pursuant to Section 11.040(f).

Section 9.025 Amendment Criteria. An amendment to the Zoning Ordinance text or map shall be supported by findings, which demonstrate that the following criteria have been met;

1. The amendment is consistent with the Comprehensive Plan.
2. The proposed amendment is required to meet a land use need.

Section 9.030 Record of Amendments. The City Recorder shall maintain records of amendments to the text and zoning map.

Section 9.040 Limitation on Re-applications. No application of property owner for an amendment to the text of this ordinance or to the zoning map shall be considered by the Planning Commission within the one year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

Section 9.050 Change of Zone for Manufactured Dwelling Parks. If an application would change the zone of property which includes all or part of a manufactured dwelling park as defined by ORS 446.003, the City shall give written notice by first class mail to each existing mailing address for tenants of the manufactured dwelling park at 20 days but not more than 40 days, before the date of the first hearing on the application. The failure of a tenant to receive notice which was mailed shall not invalidate any zone change.

ARTICLE 10. PLANNED UNIT DEVELOPMENT

Section 10.010 Intent. This article is intended to provide for developments incorporating a single type or a variety of housing types and related uses which are planned and developed as a unit. Such developments may consist of individual lots as

part of a larger holding or as common building sites. Commonly owned land which is an essential and major element of the plan should be related to and preserve the long term value of the homes and other development. It is the intent of this section to foster a more innovative approach to land development than is possible under the traditional lot by lot methods.

Section 10.020 Purpose. The purpose of this article is to provide a more desirable environment through the application of flexible and diversified land development standards following an overall comprehensive site development plan,

Section 10.030 Permitted Building Uses. The following buildings and uses may be permitted either singly or in combination provided the overall density of the planned unit development does not exceed the density of the parent zone as provided in this ordinance,

- 1, Single family dwellings including detached, attached, or semi-attached units, row houses, atrium or patio houses provided each has its own separate plot,
- 2, Duplexes and multiple family dwellings.
- 3, Accessory buildings and uses.
- 4, Commercial uses only when supported mainly by the planned unit development and only when economic feasibility can be shown.
- 5, Buildings or uses listed as permitted outright or conditionally in the parent zone on which the planned unit development is located.

Section 10.040 Development Standards.

- 1, Minimum Site Size: Planned unit developments shall be established only on parcels of land which are suitable for the proposed development and are determined by the Planning Commission to be in keeping with the intent of this ordinance.
- 2, In all residential developments, or in combination residential commercial developments, area should be devoted to open space. Of this area, 25% of said open space may be utilized privately by individual owners or users of the planned unit development; however, 75% of this area should be common or shared open space. The Planning Commission may increase or decrease the open space requirement depending on the particular site and the needs of the development. In no case should the open space be less than 25% of the site.
- 3, Density: The density of a planned development shall not exceed the density of the parent zone except as more restrictive regulations may be prescribed as a condition of a planned unit development permit. When calculating density, the gross area is used (total area including street dedications). Areas of public use may be included in calculating allowable density.
- 4, Subdivision Lot Sizes: Minimum area, width, depth, and frontage requirements for subdivision lots in a planned unit development may be less than the minimums set forth elsewhere in City ordinances, provided that the overall density is in conformance, and that lots conform to the approved preliminary development plan.
- 5, Off-Street Parking: Parking spaces shall conform to all provisions of this ordinance, except that the Planning Commission may authorize exceptions where warranted by unusual circumstances.

- 6, Signs: All signs of any type within a planned unit development are subject to approval of the Planning Commission. They shall consider each sign on its merits based on its aesthetic impact on the area, potential traffic hazards, potential violation of property and privacy rights of adjoining property owners, and need for said sign,
- 7, Height Guidelines: The same restrictions shall prevail as permitted outright in the zone in which such development occurs, except that the Planning Commission may allow a variance of heights where it is determined that the surrounding property will not be harmed,
- 8, Streets and Roads: Necessary streets and roads within the planned unit development shall be dedicated to the public and constructed to standards determined by the Planning Commission and City Engineer.
- 9, Dedication and Maintenance of Facilities: The Planning Commission may, as a condition of approval for a planned unit development, require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated for the following uses:
- A. Recreation facilities: The Planning Commission may require that suitable area for parks or playgrounds be set aside, improved, or permanently reserved for the owners, residents, employees or patrons of the planned unit development,
 - B. Common Area: Whenever common area is provided, the Planning Commission may require that an association of owners or tenants be created into a non-profit corporation under the laws of the State of Oregon, which shall adopt such articles of incorporation.
 - C. Easements: Easements necessary to the orderly extension of public utilities may be required as a condition of approval.
- 10, Approvals: The Planning Commission shall submit the preliminary development plan to the fire district, City Engineer, County Sanitarian, power company, and other utilities which will serve the planned unit development and shall consider their recommendations in regard to approval of the proposal.

Section 10.050 Procedure - Preliminary Development Plan.

- 1, The applicant shall submit four copies of the preliminary development plan to the Planning Commission. Applications shall be accompanied by a fee prescribed in Section 11,070 of this ordinance. This plan and any written statements shall contain at least the following information:
- A, Proposed land uses and densities.
 - B, Location and approximate dimensions and heights of structures.
 - C, Plan of open spaces or common spaces.
 - D, Map showing existing features of site and topography.
 - E, Proposed method of utilities service and drainage.
 - F, Road and circulation plan including off-street parking.
 - G, Relation of the proposed development to the surrounding area and the Comprehensive Plan.
 - H, Lot layout.
 - I, A schedule, if it is proposed that the final development plan will be executed in stages.

- 2, The Commission shall consider the preliminary development plan at a public hearing, at which time they shall determine whether the proposal conforms to City ordinances. In addition, in considering the plan, the Commission shall seek to determine that;
 - A. There are special physical conditions or objectives of developments which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
 - B. Resulting development will not be inconsistent with the Comprehensive Plan provisions or zoning objectives of the area.
 - C. The proposed development will be substantially in harmony with the surrounding area, including vegetation and topography and any important natural areas such as marshes or wildlife habitats.
 - D. The plan can be completed within a reasonable period of time.
 - E. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
 - F. Proposed utility and drainage facilities adequate for the populations densities and type of development proposed.
- 3, The Planning Commission shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision. Commission action can be appealed to the City Council pursuant to section 11,050.
- 4, Following this hearing, the applicant may proceed with his request for approval of the planned development.

Section 10.060 Procedure - Final Approval.

- 1, Within one year after preliminary plan approval or modified approval of a preliminary development plan, the applicant shall file a final plan for the entire development or, when submission in stages has been authorized, for the first unit of the planned unit development, with the Planning Commission. The final plan shall conform in all respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan plus the following:
 - A. Contour map showing at least 8 foot intervals.
 - B. Grading plan showing future contours if existing grade is to be changed more than 8

the proposed development or impose such conditions of approval as are, in its judgement, necessary to insure conformity to the applicable criteria and standards. In so doing, the Planning Commission may permit the applicant to revise the plan and re-submit it as a final development plan within 30 days.

- 3, After final approval by the Planning Commission, the planned unit development application will be considered approved unless appealed to the City Council pursuant to Section 11, 050,

Section 10.070. Mapping. An approved planned unit development shall be identified on the zoning map with the letters "PUD" in addition to the abbreviated designation of the parent zone.

Section 10.080. Adherence to Approved Plan and Modification Thereof.

- 1, Building permits in a planned unit development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this ordinance.
- 2, A performance bond may be required, in an amount to be determined by the Planning Commission, to insure that a development proposal is completed as approved and within the time limits agreed to.
- 3, The developer shall show to the satisfaction of the Planning Commission that the proposal will be carried out in such a way that no significant damage will be done to the lakes, streams, beaches or wetlands in the city. Special attention will be paid to the impact of the planned unit development on slide-prone hillsides to insure that damage will not be caused to surrounding property.

ARTICLE 11. ADMINISTRATIVE PROVISIONS

Section 11.010. Application Information and Procedures

- 1, An application for a permit or zone change provided for in this Ordinance shall consist of:
 - A, A complete application form.
 - B, Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
- 2, If the application is complete when first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted,
- 3, If an application for a permit or zone change is incomplete, the City shall notify the applicant of the additional information required within 30 days of the receipt of the application. The applicant shall be given the opportunity to submit the additional information required. The application shall be deemed complete upon receipt of additional information required. If the applicant refuses to submit the required additional information, the application shall be deemed complete on the 31st day after the governing body first received the application.
- 4, All documents or evidence provided by the applicant shall be submitted to the City and be made available to the public at the time the notice of public hearing required by Section 11,020 is provided.

5. Where a proposed development requires more than one permit, or zone change request from the City, the applicant may request that the City consider all necessary permit and zone change request in a consolidated manner. If the applicant requests that the City consolidate it's review of the development proposal, all necessary public hearings before the Planning Commission shall be held on the same date.

Section 11.020. Notice of Public Hearing.

1. Notice of a public hearing shall be reasonably calculated to give actual notice and shall contain the following information.

- A. The name of the applicant.
- B. The date, time, place of hearing and who is holding the public hearing,
- C. A description reasonably calculated to inform a person, of the location of the property for which a permit or other action is pending, including the street address, and the subdivision lot and block designation, or tax map designation of the County Assessor. This is not required for legislative actions under this ordinance.
- D. A concise description of the proposed development action,
- E. A description, in general terms, of the applicable criteria from the Zoning Ordinance and Comprehensive Plan known to apply to the issue,
- F. A statement that failure of an issue to be raised in a hearing, in person or by letter or a failure to provide sufficient specificity to afford decision makers an opportunity to respond to the issue precludes an appeal based on that issue,
- G. A statement describing where the complete application, criteria and other relevant information is available for review.
- H. The name and phone number of a local government representative to contact for more information.
- I. A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost, and that copies can be provided at reasonable cost,
- J. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that copies can be provided at reasonable cost.
- K. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

2. Mailed Notice

- A. Mailed notice shall be sent to property owners with the following distances from the exterior boundary of the subject property:
 1. Legislative change to the Zoning Ordinance - none.
 2. Quasi-judicial change to the Zoning Ordinance - 200 feet.
 3. Conditional use - 200 feet.
 4. Variance request - 100 feet.
 5. Appeal of a Planning Commission decision - same as for the (e.g. variance 100 feet) initial hearing.
- B. Mailed notice shall be sent to the applicant.

- C, Addresses for a mailed notice required by this Ordinance shall be obtained from the County Assessor's Real Property Tax records. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Ordinance for notice,

In addition to persons to receive notice as required by the matter under consideration, the City shall provide notice to others it has reason to believe are affected or otherwise represent an interest that may be affected by the proposed action,

3. Published Notice

- A, Notice shall be given for the proposed actions described below by publication in a newspaper of general circulation of the City of Garibaldi,
1. Legislative change to the Zoning ordinance,
 2. Quasi-judicial change to the Zoning ordinance.
 3. Conditional use.
 4. Variance
 5. Appeal of a Planning Commission decision.

- 4, Notice shall be mailed or published not less than 20 days prior to the hearing requiring the notice.

Section 11,030 Date of Public Hearing. The Planning Commission shall hold a public hearing within 60 days of the filing of a complete application unless the applicant grants an extension,

Section 11,035 Availability of Staff Reports. Any staff report to be used at a public hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. This continuance period shall not be counted as part of the 120 day time limit in Section 11,060,

Section 11,040 Public Hearing Procedure and Requirements.

- 1, Public hearings conducted under this Ordinance shall follow the procedures and requirements of this section.
- 2, The following Procedural Entitlements shall be provided at the public hearings;
 - A, An impartial review as free from potential conflicts of interest and pre-hearing ex-parte contact as is reasonably possible;
 1. No member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist;
 - a, Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating, for or has an arrangement or understanding concerning prospective partnership or employment.

- b. The member owns property within the area entitled to receive notice of the public hearing.
- c. The member has a direct private interest in the proposal,
- d. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

2. Disqualifications due to a conflict of interest or personal bias may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motions.
3. Hearing body members shall reveal any pre-hearing or ex-parte contacts with regard to any matter at the commencement of the first public hearing following the pre-hearing or ex-parte contact where action will be considered or taken on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate in the public hearing. If the member determines that such contact has affected his impartiality or ability to vote on the matter, the member shall remove himself from the deliberations. Disqualifications due to ex-parte contact may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion.
4. A party to a hearing may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state the facts relied upon by the challenger relating to a person's bias, prejudice, personal interest, ex-parte contact or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. The hearing body shall deliberate and vote on such a challenge. The person who is the subject of the challenge may not vote on the motion.
5. A party to a hearing may rebut the substance of the communication that formed the basis for an ex-parte contact declared by a member of the hearing body.
6. No officer or employee of the City who has a financial or other private interest in the proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of each interest.

- B. A reasonable opportunity for those persons potentially affected by the proposal to present evidence.
- C. A reasonable opportunity for rebuttal of new material.

3. Rights of Disqualified member of the Hearing Body.

- A. An abstaining or disqualified member of the hearing body may be counted for the purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.
- B. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

4. Burden and Nature of Proof. Except for a determination, the burden of proof is

4. Burden and Nature of Proof. Except for a determination, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this ordinance, especially the specific criteria set forth for the particular type of decision under consideration.
5. Nature of Proceedings. An order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.
 - A. Before receiving information on the issue, the following shall be addressed:
 1. Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or terminate.
 2. Any abstentions or disqualifications shall be determined, based on conflict of interest, personal bias, or ex-parte contacts.
 3. A statement by the person presiding that:
 - a. Describes the applicable substantive criteria against which the application will be reviewed.
 - b. Testimony at the hearing must be directed towards the criteria which will be used to review the land use action, or other criteria in the plan or land use regulations which a party believes to apply to the land use action.
 - c. Failure to raise an issue or address a criteria with sufficient specificity to afford the decision makers and the parties to the hearing an opportunity to respond to the issue precludes an appeal based on that issue or criteria.
 - d. Describes the review and appeal process provided for by this ordinance.
 - B. Presentation and Evidence.
 1. The presiding officer shall preserve order at the public hearing and shall decide questions of order subject to a majority vote.
 2. The presiding officer may set reasonable time limits for oral presentations. The presiding officer may determine not to receive cumulative, repetitive, immaterial or derogatory testimony.
 3. Evidence shall be received from the staff and from proponents and opponents.
 - a. Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Erroneous evidence shall not invalidate or preclude action unless shown to have prejudiced the substantial rights of a party to the hearing.
 - b. Members of the hearing body may take official notice of judicially cognizable facts of a general or technical nature within their specialized knowledge. Such notice shall be stated and may be rebutted.
 - c. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

4. The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decided may be interested in the proposal being considered. The time and date when the hearing is to resume shall be announced.
5. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner and circumstances of such view in the record.
6. When the hearing has been closed the hearing body shall openly discuss the issue and may further question a person submitting information or the staff, if opportunity for rebuttal is provided. No testimony shall be accepted after the close of the public hearing unless the hearing body provides an opportunity for review and rebuttal of that testimony.
7. At the conclusion of the public hearing, a participant in the public hearing may request that the record remain open for at least seven days for the purpose of submitting additional evidence.

Whenever the record is supplemented in this manner any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue. This extension of time shall not be counted as part of the 120 day limit in Section 11,060.

6. Decision. Following the procedure described in Section 11,040 (1)-(5), the hearing body shall approve, approve with conditions or deny the application, or if the hearing is in the nature of an appeal, affirm, affirm with modifications or additional conditions, reverse or remand the decision that is on appeal.
 - A. The decision of the hearing body shall be by a written order signed by the chair or his designee.
 - B. The order shall incorporate findings of fact and conclusions that include:
 1. A statement of the applicable criteria and standards against which the proposal was tested.
 2. A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standard, briefly state how those facts support the decision.
 3. In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate the facts in the record that support denial.
 - C. The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.
7. Record of Proceedings. The secretary to the hearing body shall be present at each hearing and shall cause the proceedings to be recorded stenographically or electronically.
 - A. Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.

- B. The hearing body shall, where practicable, retain as part of the hearing records each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.
- C. The finding shall be included in the record.
- D. A person shall have access to the record of proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.
8. Notice of Decision. Notice of a decision by a hearing body shall be provided to all parties to the hearing within five working days of the date that the final order was signed. The notice of the decision shall include:
- A. A brief description of the decision reached.
- B. A statement that the decision may be appealed by filing, with the City, an appeal within 10 calendar days of the date that the final order was signed.
- C. A description of the requirements for an appeal.
- D. A statement that an appeal may only be filed concerning criteria that were addressed at the initial public hearing.
- E. A statement that the complete case, including the final order is available for review at the City.

Section 11.050 Request for Review of a Decision, (Appeals).

1. A decision of a City administrative officer regarding a requirement of this ordinance may be appealed to the Planning Commission by an affected party by filing an appeal with the City Recorder within 10 days of the notice of decision. The notice of appeal that is filed with the City shall indicate the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the requirements of this ordinance.
2. A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 10 days of the date the final notice is signed. The notice of appeal filed with the City shall contain the information outlined in Section 11.050 (3).
3. Request for Appeal of a Planning Commission Decision. An appeal of a Planning Commission decisions shall contain:
- A. An identification of the decision sought to be reviewed, including the date of the decision.
- B. A statement of the interest of the person seeking review and that he was a party to the initial proceedings.
- C. The specific grounds relied upon for the review, including a statement that the criteria against which review is being requested were addressed at the Planning Commission hearing.
4. Scope of Review. The reviewing body may determine, as a nonpublic hearing item, that the scope of review, on appeal, will be one of the following:
- A. Restricted to the record made on the decision being appealed.
- B. Limited to the admission of additional evidence on such issues as the reviewing body determines for a proper resolution of the matter;
- C. Remand the matter to the hearing body for additional consideration;
- D. A de novo hearing on the merits.

Review On The Record.

- A. Unless otherwise provided for by the reviewing body, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include the following:
1. A factual report prepared by the city recorder;
 2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
 3. The final order and findings of fact adopted in support of the decision being appealed;
 4. The request for an appeal filed by the appellant;
 5. The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.
- B. All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time and place of the review and the issue(s) that are the subject of the review.
- C. The reviewing body shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence to parties to the hearing.
- D. In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.
- E. The appellant shall bear the burden of proof.

Review Consisting Of Additional Evidence Or De Novo Review.

- A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:
1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or
 2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and
 3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.
- B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s) shall be conducted in accordance of Sections 11.040(1) through 11,040(8),
- C. All testimony, evidence and other material from the record of the previous consideration shall be included in the record of review.

Section 11.060 Final Action on Application for Permit or Zone Change Request. The City shall take final action on an application for a permit or zone change within 120 days of the receipt of a complete application. The 120 day period does not apply to an amendment to the Comprehensive Plan or Zoning Ordinance, or the adoption of a new land use regulation. At the request of the applicant, the 120 day period may be extended for a reasonable period of time,

Section 11.070 Filing Fees. Filing fees shall be established by resolution of the City Council. It shall be the responsibility of the applicant to pay for the full cost of processing permit applications, and shall be paid to the City upon the filing of an application. Such fees shall not be refundable. The applicant shall be billed for costs incurred over and above the minimum permit fee at the conclusion of the City action on the permit request. In no case shall the actual cost of the amendment, appeal, or permit exceed the cost to the City. Such fees shall not include the cost of preparing transcripts for appeals.

Section 11.080 Building Permits.

1. No permit shall be issued by the building official for the construction, reconstruction, alteration or change of use for a structure or lot that does not conform to the requirements of this ordinance.
2. Building permits are required for any change, alteration or addition that affects the foundation, roofline, area of structure or enclosure of porches, decks, patios or carports.
3. No building permit shall be issued for any new construction or any alteration or addition to an existing structure that approaches any lot line unless an official survey accompanies the application for a building permit. The survey shall also show the elevation of the building site in areas that are located within flood hazard areas as defined by FEMA.
4. Construction on property for which a permit has been issued must be started within 120 days from the date of issue. Construction must not be abandoned for over 120 days, or a new permit must be obtained at one-half the original fee. Building permits may be renewed only once.
5. If manufactured dwellings, recreational vehicles, or other temporary structures are used during construction, water and sewer facilities must be installed within 30 days.
6. Premises may not be occupied unless furnished with sewer and water facilities.
7. The building permit shall be on forms prescribed by the City.

Section 11.090 Authorization of Similar Uses. The Planning Commission may permit, in a particular zone, a use not listed in the ordinance, provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize the inclusion in a zone, where it is not listed, of a use specifically listed in another zone.

Section 11.100 Interpretation. Where a provision of this ordinance is less restrictive than another ordinance or requirement of the City, the provision or requirements which are less restrictive shall govern.

Section 11.110 Severability. The provisions of this ordinance are severable. If a section, sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE 12. REMEDIES

Section 12.010 Penalty. A violation of any provision of this ordinance shall, upon conviction, be considered a violation, punishable by a fine not to exceed \$250,00. A violation of this ordinance shall be considered a separate offense for each day the violation continues,

Section 12.020 Alternative Remedy. In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, or altered, or used in violation of this ordinance, the building or land in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.

Section 12.030. Garibaldi Ordinances No. 79, 92, 93, and 101 are hereby repealed.

Passed and adopted by the City Council April 15, 1982.

Amended by Ordinance Nos. 110, 120, 122, 129, 133, 134, 135, 142, 148, 156, 157, 159, 163.

Amended by Ordinance No. 170 February 13, 1990 (Periodic Review)

Amended by Ordinance No. 178 February 11, 1991

Amended by Ordinance Nos. 180 and 185 September 9, 1991

Amended by Ordinance No. 190 April 13, 1992

Amended by Ordinance No. 195 September 14, 1992

Amended by Ordinance No. 209 February 14, 1994

Amended by Ordinance No. 220 March 11, 1996